By Mr. RAMSEYER: A bill (H. R. 10270) granting an increase of pension to Henrietta Lawler; to the Committee on Invalid Pensions.

By Mr. SEARS of Nebraska: A bill (H. R. 10271) granting a pension to Alonzo W. Smith; to the Committee on Pensions.

By Mr. STRONG of Pennsylvania: A bill (H. R. 10272) granting an increase of pension to Mary L. Ickes; to the Committee on Invalid Pensions.

By Mr. WOOD: A bill (H. R. 10273) granting a pension to Amanda Loshier; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1163. By Mr. CARSS: Petition of eight lodges of the International Order of Good Templars, of Duluth, Minn., Superior, Wis., and from other places, in union meeting assembled at Duluth, Minn., on the 6th day of February, A. D. 1926, indorsing enforcement of the eighteenth amendment and the Volstead Act; to the Committee on the Judiciary.

1164. Also, petition of Finnish Temperance Society, of Hibbing, Minn., opposing modification of the present prohibition law; to the Committee on the Judiciary.

1165. By Mr. FULLER: Petition of Mr. Frank H. Hall, of Rockford, Ill., urging support of House bill 9498; to the Committee on the Judiciary.

1166. Also, petition of the Illinois Motor Transportation Association, urging support of House resolution 8266; to the Committee on Interstate and Foreign Commerce.

1167. By Mr. HUDSPETH: Petition protesting compulsory Sunday observance, by citizens of El Paso, Tex.; to the Committee on the District of Columbia.

1168. Also, petition of El Paso County Retail Druggists Association, indorsing House bill 11, known as the price maintenance bill; to the Committee on Interstate and Foreign Commerce.

1169. By Mr. KIESS: Petition of Pine Street Methodist Sunday School; Bible classes of the United Brethren in Christ Church; Fosselman Bible Class, St. John Evangelical Church; East End Baptist Bible School; St. Matthews Lutheran Sunday School; Grace Evangelical Church Sunday School; Bethany Presbyterian Church and Sunday School; and other citizens, all of Williamsport, Pa., favoring the passage of legislation to close theaters and places of amusement in the District of Columbia on Sunday; to the Committee on the District of Columbia.

1170. By Mr. LINTHICUM: Petition of Joseph N. Benners, Baltimore, Md., favoring repeal of Pullman surcharge as per House bill 4497; to the Committee on Interstate and Foreign Commerce.

1171. Also, petition of Women's Civic League, Baltimore, Md., favoring two new national parks in the eastern part of the United States; to the Committee on the Public Lands.

1172. By Mr. LITTLE: Petition in form of telegrams sent by 10 citizens of Olathe, Kans., urging favorable action on Federal building bill for Olathe, introduced by Mr. LITTLE; to the Committee on Public Buildings and Grounds.

1173. Also, petition in the form of telegrams sent by citizens of Humboldt, Kans., urging favorable action on Federal building bill for Humboldt, introduced by Mr. LITTLE; to the Committee on Public Buildings and Grounds.

1174. Also, petition signed by 224 residents of Anderson County, Kans., petitioning Congress to investigate and build for the city of Garnett a Federal post-office building; to the Committee on Public Buildings and Grounds.

1175. Also, petition signed by 170 citizens of Miami County, Kans., indorsing and urging the passage of a bill introduced by Mr. LITTLE for the erection of a Federal building at Osawatomie, Kans.; to the Committee on Public Buildings and Grounds.

1176. By Mr. MADDEN: Petition of sundry citizens supporting House bill 4548, regarding disabled emergency Army officers of the World War; to the Committee on Military Affairs.

1177. By Mr. MANLOVE: Petition of 48 citizens of Nevada, Vernon County, Mo., protesting against compulsory Sunday observance; to the Committee on the District of Columbia.

1178. By Mr. MAPES: Petition of the Polish-speaking organizations in Grand Rapids, Mich., submitted by Mr. Louis Neumann, secretary Grand Rapids Chapter, Polish Welfare Council of America, Grand Rapids, Mich., recommending against the bill (H. R. 102) providing for the registration of aliens; to the Committee on Immigration and Naturalization.

1179. Also, petition of E. G. Benton, Sand Lake, Mich., and seven other residents of that vicinity, recommending against the passage of House bills 7179 and 7822, or any other national religious legislation which may be pending in Congress; to the Committee on the District of Columbia.

1180. By Mr. MEAD: Petition of National Guard Association of the State of New York, to provide funds for National Guard for proper care of animals, etc.; to the Committee on Military Affairs.

1181. By Mr. O'CONNELL of New York: Petition of Disabled American Veterans of the World War, Allingtown Hospital Chapter No. 8, West Haven, Conn., favoring the $50 pension for arrested tuberculars; to the Committee on World War Veterans' Legislation.

1182. Also, petition of the New York Patent Law Association, favoring the passage of the Graham bill (H. R. 7907) increasing the salaries of Federal judges; to the Committee on the Judiciary.

1183. By Mr. RAINEY: Petition of sundry citizens of Eldred, Ill., opposing House bills 7179 and 7822, compulsory Sunday observance; to the Committee on the District of Columbia.

1184. Also, petition of the Southern Illinois Sportsmen's League, favoring State sovereignty and a dual form of Government; to the Committee on the Judiciary.

1185. By Mr. TILSON: Petition of Candace Ferguson and others, New Haven, Conn., protesting against compulsory Sunday observance; to the Committee on the District of Columbia.

1186. By Mr. VAILE: Petition of sundry citizens of the city of Denver, Colo., opposing House bills 7179 and 7822, compulsory Sunday observance; to the Committee on the District of Columbia.

SENATE

FRIDAY, *March 12, 1926*

(Legislative day of Thursday, March 11, 1926)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, communicated to the Senate the intelligence of the death of Hon. HARRY I. THAYER, late a Representative from the State of Massachusetts, and transmitted the resolutions of the House thereon.

The message also announced that the House had agreed to the amendments of the Senate numbered 2 and 3 to the concurrent resolution (H. Con. Res. 4) providing for a joint committee to conduct negotiations for leasing Muscle Shoals, and that the House had concurred in Senate amendments numbered 1 and 4 to said concurrent resolution, each with an amendment, in which it requested the concurrence of the Senate.

CALL OF THE ROLL

Mr. JONES of Washington. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Ernst	King	Sheppard
Bayard	Fernald	La Follette	Shortridge
Bingham	Ferris	Lenroot	Simmons
Blease	Fess	McKellar	Smoot
Bratton	Fletcher	McLean	Stanfield
Brookhart	Frazier	McNary	Stephens
Broussard	George	Mayfield	Swanson
Bruce	Goff	Neely	Trammell
Butler	Gooding	Norris	Tyson
Cameron	Greene	Nye	Wadsworth
Capper	Hale	Oddie	Walsh
Caraway	Harreld	Overman	Warren
Copeland	Harris	Pepper	Watson
Couzens	Harrison	Phipps	Wheeler
Cummins	Heflin	Pine	Williams
Dale	Howell	Pittman	Willis
Deneen	Johnson	Ransdell	
Dill	Jones, Wash.	Reed, Mo.	
Edge	Kendrick	Robinson, Ark.	

The VICE PRESIDENT. Seventy-three Senators having answered to their names, a quorum is present.

SPECIAL COMMITTEE TO INVESTIGATE THE TARIFF COMMISSION

The VICE PRESIDENT. In accordance with the provisions of Senate Resolution 162, agreed to yesterday, providing that a special committee to be composed of five Senators, three of whom shall be members of the majority and include one who is a progressive Republican and two of whom shall be members of the minority, shall be appointed by the Vice President, the resolution authorizing and directing an investigation of the manner in which the flexible provision of the tariff act of 1922 has been and is being administered, the

Chair appoints as members of the special committee the following Senators:

The Senator from New York [Mr. WADSWORTH], the Senator from Pennsylvania [Mr. REED], the Senator from Wisconsin [Mr. LA FOLLETTE], the Senator from Arkansas [Mr. ROBINSON], and the Senator from Maryland [Mr. BRUCE].

MUSCLE SHOALS

The VICE PRESIDENT. The Chair lays before the Senate the action of the House of Representatives on the amendments of the Senate to House Concurrent Resolution No. 4, which will be read.

The Chief Clerk read as follows:

IN THE HOUSE OF REPRESENTATIVES,
March 11, 1926.

Resolved, That the House agrees to the amendments of the Senate Nos. 2 and 3 to the concurrent resolution (H. Con. Res. 4) providing for a joint committee to conduct negotiations for leasing Muscle Shoals.

That the House concurs in Senate amendment No. 1 with an amendment, as follows:

In lieu of the matter inserted by said amendment insert the following: "or leases (but no lease or leases shall be recommended which do not guarantee and safeguard the production of nitrates and other fertilizer ingredients mixed or unmixed primarily as hereinafter provided)."

That the House concurs in Senate amendment No. 4 with an amendment, as follows:

On page 1, line 20, strike out the period and insert the following: ": *And provided further*, That the committee in making its report shall file for the information of the Senate and House of Representatives a true copy of all proposals submitted to it in the conduct of such negotiations."

Mr. HEFLIN. Mr. President, the House has agreed to the amendments of the Senate on the Muscle Shoals resolution with reference to the distribution of power and the extension of time in which to report bids to April 26. It modified two other propositions in the resolution, one providing that fertilizer or fertilizer ingredients, mixed or unmixed, shall be produced, and the other that all bids shall be reported back to Congress. The Senators who favored the resolution and those who opposed it have agreed to the amendments. The Senator from Arkansas [Mr. CARAWAY] and the Senator from Georgia [Mr. GEORGE] have agreed to them and I have agreed to accept them. I have asked the Senator from Idaho [Mr. GOODING] to yield to me for immediate action upon the amendments of the House, and he has agreed to do so if it does not lead to debate. Since there has been an understanding on both sides regarding these amendments, I ask for the immediate consideration of the amendments of the House to the amendments of the Senate Nos. 1 and 4.

Mr. McKELLAR. Mr. President, before that is done I ask the Senator from Alabama if he will not withhold the request for a little while until I have had an opportunity to examine the amendments.

Mr. NORRIS. Will the Senator yield to me to make a suggestion——

Mr. HEFLIN. I yield.

Mr. NORRIS. I do not know that I have any objection to the amendments, but they have not been printed. The matter has been brought back to the Senate?

Mr. HEFLIN. The amendments of the House have been laid before the Senate.

Mr. GOODING. Mr. President, before the discussion proceeds further I want to know if consideration of the matter is going to lead to any extended debate. I realize the importance of the Muscle Shoals resolution, but I am sure the Senate will remember that the bill proposing to amend the long-and-short-haul clause of the interstate commerce act has been before the Senate as the unfinished business for several days. I thought it was very proper to yield for the consideration of the Army appropriation bill and the resolution with reference to the Tariff Commission submitted by the senior Senator from Arkansas [Mr. ROBINSON], but I can not now yield for any matter that is going to develop debate. I do not think, in a spirit of fairness, that I should be asked to do so.

Mr. McKELLAR. I ask the Senator from Alabama to let the matter go over for the present.

Mr. NORRIS. I want to make a suggestion only. It is that the Senator from Alabama let the matter go over until to-morrow morning, and let us have the resolution printed with the House amendments in italics. Then we can see just what changes have been made and take up the amendments for consideration to-morrow morning.

Mr. HEFLIN. I will agree then that it may go over until to-morrow.

Mr. NORRIS. I ask unanimous consent that the resolution be printed in the usual form, showing the House amendments in italics.

The VICE PRESIDENT. Without objection, it is so ordered.

EMPLOYMENT OF CONSULTING ENGINEERS ON COOLIDGE DAM

The VICE PRESIDENT laid before the Senate the action of the House of Representatives concurring in the amendment of the Senate to the bill (H. R. 6374) to authorize the employment of consulting engineers on plans and specifications of the Coolidge Dam, with an amendment, as follows:

On page 2, line 3, after the word "day," insert the words "and necessary traveling expenses, including a per diem of not to exceed $4 in lieu of subsistence"; and on page 2, lines 6 and 7, strike out the words "and which compensation shall be inclusive of all travel and other expenses incident to the employment."

Mr. CAMERON. I move that the Senate concur in the House amendment to the Senate amendment.

The motion was agreed to.

BOARD OF PUBLIC WELFARE

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 1430) to establish a board of public welfare in and for the District of Columbia, to determine its functions, and for other purposes, which was, on page 9, line 7, after the word "shall," to insert "when practicable."

Mr. CAPPER. I move that the Senate concur in the House amendment. It is simply a slight change in verbiage.

The amendment was concurred in.

FREE PUBLIC LIBRARY IN THE DISTRICT

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 2673) to amend the act approved June 3, 1896, entitled "An act to establish and provide for the maintenance of a free public library and reading room in the District of Columbia."

Mr. CAPPER. I move that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the Vice President appointed Mr. CAPPER, Mr. JONES of Washington, and Mr. KING conferees on the part of the Senate.

POSTAL RECEIPTS (S. DOC. NO. 81)

The VICE PRESIDENT laid before the Senate a communication from the Postmaster General, transmitting in response to Senate Resolution 156 (submitted by Mr. HARRISON and agreed to on yesterday), showing by classes of mail matter and special services the probable revenue of the Post Office Department for the fiscal year ending June 30, 1926, based upon data collected during the period July 1 to December 31, 1925, and also the probable revenues that would have been received from the same sources during the fiscal year ending June 30, 1926, had the rates of postage and the basis of classification not been changed, etc., which, with the accompanying papers, was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

PETITIONS AND MEMORIALS

Mr. OVERMAN presented a letter from P. H. Hanes, jr., president of the P. H. Hanes Knitting Co., of Winston-Salem, N. C., protesting against the passage of the so-called Gooding long and short haul bill, which was ordered to lie on the table and to be printed in the RECORD, as follows:

WINSTON-SALEM, N. C., *March 8, 1926.*

Hon. LEE S. OVERMAN,
United States Senate, Washington, D. C.

DEAR SENATOR OVERMAN: The Gooding bill is again before the Senate, as I understand. It has so many dangerous and objectionable features that I can not help but bring some of them to your attention.

We find the shippers of our State, when informed, are against this measure and in favor of having the Interstate Commerce Commission administer the law as at present, all members of which, with the exception of two, have been and are opposed to a rigid fourth section law. Likewise the different organizations of shippers, such as National Industrial Traffic League, of nation-wide membership, and other smaller ones.

Certainly the Interstate Commerce Commission has been very conservative in granting relief from the present fourth section law, and, so far as I have been able to learn, there has been little or no complaint from their decisions. Of course, a great many rates are yet in effect under temporary fourth-section relief that are being eliminated

as fast as conditions will permit, as is being done on class rates to-day in Southern States. (I. C. C. Docket 13494 and Eastern States Docket 15879.)

It seems as if this subject is brought up every year or so by some one from the Rocky Mountain States, the motive of which seems to be entirely selfish. Certainly Pacific coast cities will continue to get their freight at low rates via water, lower than the rail lines can hope to carry them whether or not the Interstate Commerce Commission permits the transcontinental railroads to reduce their rates to coast points in relation to the steamship charges through the canal in the hope of attracting some of the tonnage they have lost to the boat lines. It is true railroads maintain export rates on some commodities to all the ports lower usually than domestic rates, but without which our interior manufacturers could not hope to compete with those located along the seaboard and in Europe. Assuredly it would not be a good policy for the country as a whole to abolish these export rates, yet our Rocky Mountain friends have seen fit to use them in comparison with their domestic rates and to show that shipments of certain commodities can be forwarded from Chicago to Hongkong, China, through Salt Lake City, Utah, for a lower charge than if they are shipped only to Salt Lake City. They have been broadcasting these conditions with the hope possibly of having their rates reduced, which I should like to see done, but I can not help but feel that they are pursuing the wrong path to secure this result.

To carry out an absolute fourth section law would result in having all freight rates applied on a yard-stick basis, competitive conditions could not be considered as at present and would eventually limit the distribution of all commodities to the back yard of the plant wherein they are finished, so to speak. To illustrate, the southern rail carriers now apply rates on cotton piece goods, hosiery, and underwear from Carolina mill points to cities on the Ohio River, with higher rates to intermediate stations, which enables them to make charges, permitting the Carolina mills to ship their goods to the great consuming centers of the Middle West at relatively the same rates as the manufacturer located in New York or the New England States. There are also rates to cities situated along the Mississippi River on all lines of cotton goods, also on temporary fourth section relief, but using these low rates to the river as a base we can ship our goods into Texas and the great Southwest on similar rates as the mills located in the East via boat lines from Boston, New York, and Philadelphia through the Gulf ports of New Orleans, La., or Houston, Tex.

If the Gooding bill is passed and applied, it will make unlawful the present favorable rates to the territories mentioned, which will be an irreparable blow to the Carolina cotton mill interests. Please get in touch with Senator SMITH of South Carolina, who is a member of the Senate Interstate Commerce Committee, as well as other members, and do all possible to kill the measure.

We have given the above subject close study and present the facts as they appear to us appealing to you to protect by all means the large cotton mill interests of the Carolinas against such a law. Will you kindly let me know your conclusions.

Very truly yours,

P. H. HANES KNITTING CO.,
P. H. HANES, Jr., *President*.

Mr. OVERMAN also presented letters in the nature of memorials of the transportation council of the Winston-Salem Chamber of Commerce, of Winston-Salem; the Tomlinson Chair Manufacturing Co., of High Point; W. L. Thornton, jr., secretary-traffic manager of the Eastern Carolina Wholesale Dealers and Manufacturers' Association (Inc.), of Wilson; and the Chatham Manufacturing Co., of Winston-Salem, all in the State of North Carolina, protesting against the passage of the so-called Gooding long and short haul bill, which were ordered to lie on the table.

Mr. HARRIS presented a resolution of the General Assembly of the State of Georgia, which was ordered to lie on the table, and to be printed in the RECORD, as follows:

A resolution

Be it resolved by the General Assembly of Georgia, That there is now pending before the United States Senate House Concurrent Resolution 4, which provides for the establishment of a joint committee on Muscle Shoals which will be authorized and directed to negotiate for a lease of the properties of the National Government, known as Muscle Shoals.

That it is the earnest request of this assembly, that such amendments be incorporated into the House resolution above referred to or into any other legislation authorizing the disposal of the Muscle Shoals property as will require that the electric power which may now or in the future be generated at Muscle Shoals, above the requirements for the manufacture of fertilizers or fertilizer ingredients, shall be distributed equitably throughout the territory in the States adjoining the Muscle Shoals property.

That the speaker of the house of representatives and president of the senate communicate this resolution by telegraph to the chairman of the Agricultural Committee of the United States Senate and to the Senators and Representatives from Georgia.

Mr. WILLIS presented a paper in the nature of a petition from the Western Grain Dealers' Association, of Des Moines, Iowa, urging the passage of the bill (S. 3069) to enforce the liability of common carriers for loss of or damage to grain shipped in bulk, which was referred to the Committee on Interstate Commerce.

Mr. PEPPER presented a memorial of the Philadelphia (Pa.) Board of Trade, remonstrating against the passage of Senate bill 756, the so-called Pittman silver purchase bill, which was ordered to lie on the table.

He also presented a memorial of the Philadelphia (Pa.) Board of Trade, remonstrating against the passage of Senate bill 575, the so-called Gooding long and short haul bill, which was ordered to lie on the table.

Mr. CAPPER presented a petition numerously signed by sundry citizens of Fort Dodge, Kans., praying for the passage of the bill (S. 3301) granting pensions and increase of pensions to certain soldiers and sailors of the Civil and Mexican Wars, and to certain widows, former widows, minor children, and helpless children of said soldiers and sailors, and to widows of the War of 1812, which was referred to the Committee on Pensions.

He also presented petitions of sundry citizens of Wichita, Kans., praying for the passage of legislation granting increased pensions to veterans of the war with Spain and their widows and dependents, which were referred to the Committee on Pensions.

Mr. LENROOT presented a resolution adopted by the common council of the city of Milwaukee, Wis., protesting against the noise and din occasioned by the operation of a new foghorn at that city, which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES

Mr. BUTLER, from the Committee on Naval Affairs, to which was referred the bill (S. 3227) to authorize the Secretary of the Navy to dispose of sand and gravel from the naval ammunition depot reservation at Hingham, Mass., reported it without amendment and submitted a report (No. 356) thereon.

Mr. PEPPER, from the Committee on Banking and Currency, to which was referred the bill (S. 3377) to amend section 5219 of the Revised Statutes of the United States, reported it without amendment.

He also, from the same committee, to which was referred the bill (H. R. 2) to amend an act entitled "An act to provide for the consolidation of national banking associations," approved November 7, 1918; to amend section 5136 as amended, section 5137, section 5138 as amended, section 5142, section 5150, section 5155, section 5190, section 5200 as amended, section 5202 as amended, section 5208 as amended, section 5211 as amended, of the Revised Statutes of the United States; and to amend section 9, section 13, section 22, and section 24 of the Federal reserve act, and for other purposes, reported it with amendments.

Mr. PEPPER. I ask that leave be granted to file a report at a later date to accompany House bill 2 just reported by me.

The VICE PRESIDENT. Without objection, leave is granted.

Mr. WATSON, from the Committee on Interstate Commerce, to which was referred the bill (S. 2320) to safeguard the distribution and sale of certain dangerous caustic or corrosive acids, alkalies, and other substances in interstate and foreign commerce, reported it with amendments and submitted a report (No. 357) thereon.

Mr. ASHURST, from the Committee on Indian Affairs, to which was referred the bill (S. 2817) for the relief of Edgar K. Miller, reported it without amendment and submitted a report (No. 358) thereon.

He also, from the same committee, to which was referred the bill (S. 3122) for completion of the road from Tucson to Ajo, via Indian Oasis, Ariz., reported it with an amendment and submitted a report (No. 359) thereon.

Mr. HARRELD, from the Committee on Indian Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (S. 7) to reimburse the Truckee-Carson irrigation district, State of Nevada, for certain expenditures for the operation and maintenance of drains for lands within the Paiute Indian Reservation, Nev. (Rept. No. 360); and

A bill (S. 2702) to provide for the setting apart of certain lands in the State of California as an addition to the Morongo Indian Reservation (Rept. No. 361).

Mr. HARRELD also, from the Committee on Indian Affairs, to which was referred the bill (S. 3259) authorizing the enrollment of Martha E. Brace as a Kiowa Indian and directing issuance of patent in fee to certain lands, reported it with amendments and submitted a report (No. 362) thereon.

Mr. CAPPER, from the Committee on the District of Columbia, to which was referred the bill (H. R. 8830) amending the act entitled "An act providing for a comprehensive development of the park and playground system of the National Capital," approved June 6, 1924, reported it with amendments and submitted a report (No. 363) thereon.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second tme, and referred as follows:

By Mr. NEELY:

A bill (S. 3534) granting an increase of pension to Earl W. Newlon; to the Committee on Pensions.

By Mr. HARRIS:

A bill (S. 3535) for the relief of the legal heirs of Walter Blake Heyward; to the Committee on Claims.

A bill (S. 3536) authorizing the purchase of a site and the erection thereon of a national home for soldiers and sailors of all wars; to the Committee on Military Affairs.

By Mr. SWANSON:

A bill (S. 3537) to extend the benefits of the World War veterans' act, 1924, and acts amendatory thereof to Thomas Beverly Campbell; to the Committee on Finance.

By Mr. HARRELD:

A bill (S. 3538) authorizing the Secretary of the Interior to pay legal expenses incurred by the Sac and Fox Tribe of Indians of Oklahoma; to the Committee on Indian Affairs.

By Mr. JOHNSON:

A bill (S. 3539) granting a pension to Harry C. Clifford, sr.; and

A bill (S. 3540) granting an increase of pension to Edward Davis; to the Committee on Pensions.

By Mr. WILLIS:

A bill (S. 3541) granting a pension to Margaret Rupple (with accompanying papers); and

A bill (S. 3542) granting an increase of pension to Elizabeth Lilly (with accompanying papers); to the Committee on Pensions.

By Mr. BRATTON:

A bill (S. 3543) granting a pension to Joe S. Duran; to the Committee on Pensions.

By Mr. McKELLAR:

A bill (S. 3544) to amend Title II of an act approved February 28, 1925, regulating postal rates, and for other purposes; to the Committee on Post Offices and Post Roads.

By Mr. HARRELD:

A joint resolution (S. J. Res. 71) authorizing the Secretary of the Interior to establish a trust fund for the Kiowa, Comanche, and Apache Indians in Oklahoma and making provision for the same; to the Committee on Indian Affairs.

AMENDMENT TO INDEPENDENT OFFICES APPROPRIATION BILL

Mr. COPELAND submitted an amendment intended to be proposed by him to House bill 9341, the independent offices appropriation bill, which was ordered to lie on the table and to be printed, as follows:

On page 32, line 16, after the word "claims," insert the following: "*Provided further*, That no part of the moneys appropriated or made available in this act for the United States Shipping Board Emergency Fleet Corporation shall be used or expended for the reconditioning of or major repairs performed upon the steamships *George Washington, President Harding, President Roosevelt, America*, nor for the reconditioning of or major repairs performed upon such cargo vessels as are to be reconditioned or have major repairs performed upon them except at Government navy yards."

ADDRESS BY JAMES A. FARRELL

Mr. COPELAND. Mr. President, I observe in this morning's issue of the New York American the report of a remarkable address delivered yesterday by James A. Farrell, president of the Steel Corporation, before the American Exporters' and Importers' Association. It relates to the subject of exports to South America. In view of the agitation for a canal between the Great Lakes and the ocean, this is an important contribution. The success of that canal, as I view it, depends upon our coastal trade and our exports to Central and South America. I ask permission to have the address printed in the RECORD.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

[From the New York American, Friday, March 12, 1926]

FARRELL PREDICTS GREATER TRADE WITH LATIN AMERICA

South and Central American exports to the United States in 1925 increased 30 per cent over the previous year and Latin-American imports to this country now far exceed our exports to the southern continent, declared James A. Farrell, president of the Steel Corporation, in an address before the American Exporters' and Importers' Association at the Whitehall Club yesterday.

Mr. Farrell, who was introduced by G. R. Parker, president of the association, predicted a long-continued epoch of amity in the trade relations between the United States and her South American neighbors.

Mr. Farrell said, in part:

"I think it almost unnecessary at a gathering of the Latin American consular representatives and the members of the American Exporters' and Importers' Association to stress unduly the friendship which should exist, and does exist, between the southern Republics and this country. For both are intent on the development of commerce between our respective countries and this will not thrive unless it has a background of amity, good will, and mutually satisfactory trade relations.

"There are many factors which join the various members of the Western Hemisphere to each other. First of all, there is the element of proximity. Notwithstanding the seemingly great distance from the northern boundary of the United States of North America to Tierra del Fuego on the south, distances between the principal commercial centers of our respective countries are not so great, and modern transportation has tended to lessen them. The Panama Canal has provided ready access to both the east and west coasts of both continents. Aside from this, better shipping facilities are constantly being developed and, as a result, North and South America are neighbors in a literal and figurative sense.

COMMUNITY OF INTEREST

"There is a community of interest in our political and economic structures, for these two continents have seen the inception and development of the republican form of government on its greatest scale. That this has not always carried with it permanent political stability reflects no discredit on the fundamental principles of self-government. Our own Civil War, and the various disturbances experienced by other countries have probably been inevitable steps in the evolution of popular government, and their decreasing frequency leads to the belief that an increasing political stability may confidently be looked for.

"Apart from our geographical proximity and governmental similarity, there are other ties which bind the southern and northern republics. The greatest of these is economic interdependence. Human existence and human progress are predicated upon the development of the world through the application of human endeavor, as exemplified in commerce. When we pass the primitive state, where mankind ekes out a mere livelihood from the immediate soil on which he himself dwells, we rapidly reach the point where higher standards of living depend upon the exchange of the product of labor.

PROGRESS OF MAN

"Thus the evidences of the progress of man are associated with barter and trade, through which one group or community produced more than it required for its own needs and exchanged its surplus with other groups for a like surplus of their products, to the benefit and advantage of both. It early became evident that physical location, climatic conditions, or special aptitude for a particular form of industry made it desirable for one people or race to engage in the production of certain human needs, while their neighbors occupied themselves with others, and then through trade each secured what it lacked and both prospered accordingly. This has gone on through the ages, until to-day there is no nation which does not depend in greater or less measure on the products of others.

"As between the southern and northern halves of the Western Hemisphere this is particularly exemplified. On the one hand we have in this country a population of upward of 110,000,000 of people, while in the nations to the south of us we find a population, roughly, three-quarters as great, though distributed over an area nearly three times larger. That the needs of one should supplement those of the other would be almost inevitable, and in actual practice trade has been carried on for many years without serious interruption and in constantly increasing volume.

EXPORTS INCREASE

"Thus in the year 1925 exports to South and Central America increased approximately 30 per cent over the previous year, representing a greater increase than any other of the principal geographic divisions of the world. That this trade was reciprocal is indicated by the fact that the imports to this country were in even greater volume. In fact, South America, Central America, and adjacent countries constituted one of the three great divisions in which imports to the United States of America exceeded exports.

"A glance at the trade statistics shows the sound foundation on which this exchange of commodities rests. We have in this country

made great strides in the last half century in our industrial development, with the result that we can supply all manner of manufactured goods, from steam locomotives and automobiles to talking machines, while on the other hand the riches of the Southern Hemisphere have taken the form of food products, cattle, hides, and most of the principal minerals.

"A large part of our exports comprise machinery, oil products, steel, transportation equipment, and manufactures in great variety, which in turn are employed in the production of the very commodities which are shipped back to us.

EXPORTS OF CAPITAL

"Another part of our exports, which we are all pleased to observe, is in the form of capital, which is being utilized in the further development of natural resources and the opening of new regions, to the benefit of us all.

"This, in brief, is reciprocity of trade and community of interest in a constantly increasing measure, and I venture to say that we have seen only the beginning of the still greater prosperity which a continuation of our commercial relations will bring us.

"I feel confident that I am expressing the views not only of the American Exporters and Importers' Association, and of other commercial bodies, but of the overwhelming majority of the thinking people of this country, when I say that we extend to our sister Republics every sentiment of sincere friendship and good will, and this not solely because of self-interest but because of a genuine feeling of respect and admiration and the recognition that, despite differences of language and of custom, we are, after all, fellow beings and are in our several ways each making our contribution toward human progress."

THE PITTMAN SILVER PURCHASE BILL

Mr. PITTMAN. Mr. President, I ask unanimous consent to have printed in the RECORD an article by former United States Senator Charles S. Thomas, of Colorado, on the pending silver bill in answer to what he considers a criticism by a newspaper.

The VICE PRESIDENT. Without objection, permission is granted.

The article is as follows:

[From the Baltimore Sun, March 12, 1926]

EX-SENATOR THOMAS DEFENDS SILVER BILL—REPLYING TO FRANK R. KENT'S ARTICLE, HE SAYS MEASURE IS NECESSARY BECAUSE TREASURY REFUSED TO COMPLY WITH PITTMAN ACT

The following letter was sent the Sun by ex-Senator Charles S. Thomas, of Colorado, counsel for the silver producers before Congress. It is a defense of a pending measure which was severely criticized in a recent article by Mr. Kent.

TO THE EDITOR OF THE SUN.

SIR: Your Washington correspondent's attack upon Senate bill 756, known as the Pittman bill, is so contrary to the facts, and so unjust to Senators PEPPER and PHIPPS, that I crave the privilege of presenting the facts to your readers. I believe that I am as familiar with all the phases of the situation as anyone, and I am sure that when they are known the injustice of his criticism will be readily acknowledged.

At the outset let me say that Mr. Kent's allusions to secrecy and underground efforts at securing this legislation are wholly gratuitous. Not a step has been taken, from its inception to the present hour, which subjects any man to the reproach of endeavoring to secure its enactment "without unnecessary noise." On the contrary, every step in the procedure, from the appointment of a Senate special committee of inquiry in 1923 down to the hearing by the Senate Committee on Banking and Currency less than two weeks ago, has been public.

Briefly the facts are that the bill for the Pittman Act of April 23, 1918, was presented to the Senate five days earlier by Senator Owen, then chairman of the committee on Banking and Currency, who urged its immediate consideration because needed to meet what he called "an emergency of the first magnitude." It was designed primarily to enable Great Britain to sustain her credit in East India. It authorized the Secretary of the Treasury "to melt or break up not in excess of 350,000,000 silver dollars then or thereafter held in the Treasury and to sell the bullion for not less than $1 per ounce of the silver."

Such sales were confined to four purposes—"to preserve the existing stock of gold in the United States, to facilitate the settlement in silver of trade balances adverse to the United States, to provide silver for subsidiary coinage and commercial use, and to assist foreign governments at war with the enemies of the United States." Upon the insistence of the Treasury it was especially provided that "the allocation of any silver to the Director of the Mint for subsidiary coinage should for the purposes of the act be regarded as a sale or resale."

The bill also required the Secretary, through the Director of the Mint, "to purchase in the United States, of the product of mines therein situated and of reduction works therein located, an amount of silver equal to 371.25 grains of pure silver in respect of every silver dollar so melted and sold," at the fixed price of $1 per ounce of silver 1,000 fine, that any silver so purchased could be resold for any of the purposes specified in the act, and that upon each sale of bullion the Secretary should "immediately direct the Director of the Mint" to make the equivalent purchases.

Your correspondent says: "Fearing that the sale of 350,000,000 silver dollars might result in curtailing the volume of silver currency in this country and damage the silver-mining industry, the silver Senators succeeded in amending the Pittman bill so as to compel the Government, when silver should be sold, to buy an equal amount at $1 an ounce." This is not true.

The bill as introduced so provided, and the fixed price at $1 was a compromise between those who insisted upon this sum and those who wanted that price as a minimum, so as to correspond with the provision regarding sales. The two amendments relating to silver which were offered on the floor and accepted confined the purchase to the American product and required the recoinage of silver into dollars, so that, in the language of Senator Owen, "the equilibrium should be complete with the final administration of the act."

Silver was then selling at about 97 cents, and both the price and cost of production were rising. Within 18 months the world price of silver was about $1.40 and beyond the melting point of all American silver currency.

The act was administered according to its terms, except as to certain allocations made to the mints for subsidiary coinage, for which there was a pressing demand, up to February 1, 1921. The conduct of the Treasury Department solely with regard to allocations or sales made to the mint for subsidiary coinage purposes under the act is the foundation of the pending bill.

There were five of these, dated September 7, 1918; November 19, 1919; November 6, 1920; October 18, 1920; and December 18, 1920. The first three allocations comprised 11,111,168 silver dollars. The other two comprised 6,000,000 ounces of silver bullion, being a total of 14,589,730.13 fine ounces. This silver was transferred on the accounts of the Treasury Department to the mint, and due credit at $1 an ounce for the bullion and much more than that for the silver dollars was appropriately given. In other words, although no money actually passed, the terms of the act regarding sales were complied with.

The director in each of these requisitions declared the existing amount of available silver to be insufficient for the purposes of the near future.

These allocations were all made by Mr. S. P. Gilbert during the administrations of Secretaries Glass and Houston. Your correspondent's statement that last year Mr. Mellon allocated a certain amount of silver in the Treasury to be made into halves, quarters, and dimes, and that almost immediately he discovered it was not needed and promptly revoked the allocations, is not true. Mr. Mellon never made any allocations under the act.

In each of the allocations the Secretary directed the Director of the Mint to purchase equivalent amounts of silver at $1 an ounce, as the law required, and of the silver allocated 10,247,976.52 ounces have been actually coined into fractional currency at a ratio of 1.38, or a profit to the Government of $3,894,220.

Thirteen months after the date of the last allocation, and on February 11, 1922, Mr. Gilbert arbitrarily revoked the last two allocations to the extent of 4,341,753.61 ounces then uncoined. Ten months afterwards he invoked the opinion of the Comptroller General as to the remainder of these allocations, but without informing him of its actual recoinage, as to his authority to revoke those also. Told to go ahead, he promptly did so by an order dated December 19, 1922.

Having sold the silver and ordered its repurchase under the law, he assumed authority 13 and 23 months thereafter, respectively, and after most of it had been recoined, to revoke the sales. These acts of the Secretary of the Treasury were at once challenged as beyond his power. His predecessor having sold the silver and ordered its repurchase, nothing remained, any more than in the sales to Great Britain, for the Secretary to do but comply with the terms of the act.

The proposition involved is whether an administrative officer can disregard the mandate of a law of Congress and substitute for it his own idea of what the law should be. If a Secretary of the Treasury can do so in this instance, any Secretary can do so whenever in the administration of a Federal statute his judgment fails to approve of its terms and requirements. No lawyer to whom I have submitted this proposition, whether in the Senate or out of it, has challenged my assertion that this is ultra vires. Senator PEPPER'S offense is that he holds this view.

In April, 1924, the facts were submitted to the Senate Committee on Banking and Currency, followed by a unanimous report recommending the passage of the bill. The Senate passed it in May. On the 15th day of January, 1925, it was again argued before a full committee of the House, Undersecretary Winston appearing for the Government. This committee also unanimously recommended the measure favorably. It would have passed but for the congested condition of the docket. Because of that Senator PHIPPS made a perfectly legitimate effort to add it as an amendment to one of the appropriation bills. An objection that it was out of order was sustained and the bill failed.

A word as to the "bonus" feature of the measure, which is the principal headline to Mr. Kent's letter. It is true that both Mr. Mellon and Mr. Winston have charged the miners of the West with an effort to secure a bonus of about $5,000,000 from the Treasury. It is also true that in purchases hitherto made the excess over the market price paid for silver was more than $58,000,000. But these gentlemen have never denied our contention that not one dollar of this sum came from the people of the United States or its Treasury. The fund secured by the sales of melted silver dollars was used, and was designated for the purchase of an equivalent amount of silver at exactly the same price. The purchase of silver in dispute will cost the Government not a dollar, because it has received the equivalent in its sales under the act.

Bear in mind also that the cost of silver production, except perhaps where mined as a by-product, was, especially during the years immediately succeeding the war, virtually the equivalent of $1 an ounce. If, as now contended, the Government should have sold silver at $1 and bought it at 70 cents, it would have realized a "bonus" through the financial distress of one of our allies to the extent of nearly $65,000,000. Surely the Sun would approve of no such situation. Yet the Government insists on retaining $5,000,000 of this fund for itself. This "bonus" is included in the statutory price to be paid for the silver. Under the same statute the Government must coin it into silver dollars at $1.29. Its profit is therefore 29 per cent on the purchase, or $4,232,021.70. Would that every "bonus" were equally prolific. Let me here remind you also that the Government has made the same ratio of profit on the 209,008,120 ounces it purchased and coined under the provisions of the law, or $69,612,444.80. Is it a "bonus" also?

Senator PHIPPS has no personal interest in Senate bill 756. He is not a mine owner. Our political affiliations are diverse, yet I affirm that he has given satisfaction as a Senator, both to the State and Nation. PEPPER and he are hard-working, conscientious, and capable, and no more unjust reflection than that of Mr. KENT upon two honorable public officials can be imagined.

I have been general counsel for the American Silver Producers' Association for nearly three years. Their records and their action regarding this subject are open to the world. If the laws of the United States are to be enforced by those in authority, and the assurances of the act of April 23, 1918, are to be respected, the Treasury will buy the amount of silver in dispute. If, on the other hand, the action of the Secretary shall be determined by his sense of discretion, and the assurances thus given are mere delusions, the bill will be defeated. Our attitude has not been "in the shadows," nor have we sought the "high spots." The bill should stand upon its merits, and that alone, not upon Mr. Mellon's judgment, nor upon the pretense that it carries a bonus to the silver-mine owners. Even if it were true, the mine owners would enjoy good company.

Let me close with the reflection that this charge of a bonus first appeared in 1923, in a letter of Undersecretary Gilbert to Senator PITTMAN. It was by that time evident that an appeal to prejudice might enable him "to save his face." The bill may be defeated by resort to such methods, but not otherwise.

Senator GLASS, whom Mr. Kent refers to with such approval, complimented my written presentation of the controversy as being "technically accurate," from which I inferred that in his opinion it accorded strictly with facts and history.

Very respectfully,

C. S. THOMAS.

WASHINGTON, D. C., *March 9.*

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5043) granting the consent of Congress to the Midland & Atlantic Bridge Corporation, a corporation, to construct, maintain, and operate a bridge across the Big Sandy River, between the city of Catlettsburg, Ky., and a point opposite in the city of Kenova, in the State of West Virginia.

LONG-AND-SHORT-HAUL CLAUSE OF INTERSTATE COMMERCE ACT

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 575) to amend section 4 of the interstate commerce act.

Mr. FESS. Mr. President, I desire to announce that immediately following the address of the Senator from Idaho [Mr. GOODING] I wish to take the floor to make an address on the same subject.

Mr. McKELLAR. I gave notice on yesterday, I will say to the Senator from Ohio, that at the conclusion of the remarks of the Senator from Idaho I desired to make some remarks upon the subject of prohibition. I hope the Senator from Ohio will not interfere with that notice already given.

Mr. GOODING addressed the Senate. After having spoken for some time,

Mr. KENDRICK. Mr. President——

The PRESIDING OFFICER (Mr. WILLIS in the chair). Does the Senator from Idaho yield to the Senator from Wyoming?

Mr. GOODING. I yield.

Mr. KENDRICK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Bayard	Ernst	Jones, N. Mex.	Phipps
Bingham	Fernald	Jones, Wash.	Pine
Blease	Ferris	Kendrick	Pittman
Bratton	Fess	King	Ransdell
Broussard	Fletcher	La Follette	Robinson, Ark.
Bruce	Frazier	Lenroot	Schall
Cameron	George	McKellar	Sheppard
Capper	Goff	McLean	Simmons
Caraway	Gooding	McNary	Smoot
Copeland	Hale	Mayfield	Stanfield
Couzens	Harreld	Means	Tyson
Cummins	Harris	Neely	Wadsworth
Dale	Harrison	Norris	Walsh
Deneen	Heflin	Nye	Watson
Dill	Howell	Oddie	Wheeler
Edge	Johnson	Overman	Willis

The PRESIDING OFFICER. Sixty-four Senators having answered to their names, there is a quorum present.

Mr. GOODING resumed his speech. After having spoken for some time,

Mr. McNARY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WILLIS in the chair). The clerk will call the roll.

The principal legislative clerk called the roll, and the following Senators answered to their names:

Bingham	Ferris	McLean	Sheppard
Blease	Fess	McNary	Simmons
Bratton	Frazier	Mayfield	Stanfield
Brookhart	George	Neely	Stephens
Broussard	Goff	Norris	Tyson
Butler	Gooding	Nye	Wadsworth
Cameron	Heflin	Oddie	Walsh
Capper	Howell	Overman	Warren
Copeland	Johnson	Phipps	Watson
Couzens	Jones, N. Mex.	Pine	Wheeler
Cummins	Kendrick	Pittman	Willis
Deneen	King	Ransdell	
Edge	Lenroot	Robinson, Ark.	
Ernst	McKellar	Schall	

Mr. FESS. I was requested to announce that the Senator from Washington [Mr. JONES], the Senator from Utah [Mr. SMOOT], the Senator from Maine [Mr. HALE], the Senator from Minnesota [Mr. SHIPSTEAD], the Senator from Florida [Mr. FLETCHER], and the Senator from Georgia [Mr. HARRIS] are detained from the Chamber on official business.

The PRESIDING OFFICER. Fifty-three Senators having answered to their names, a quorum is present.

Mr. GOODING resumed and concluded his speech, which is as follows:

Mr. President, in my judgment no more important bill has ever been before the Senate for consideration on the subject of transportation than Senate bill 575. The bill is not only important so far as transportation is concerned, but there is also a great social problem involved in the measure, because under the present policy of the Government we are building up great centers of population at the expense of the interior. If this bill shall become a law it will stop the Interstate Commerce Commission from permitting the railroads to discriminate against the interior in freight rates in favor of great cities.

In the last session of Congress Senate bill 2327, which was known as the long and short haul bill, was discussed on the floor of the Senate by the friends of the measure for something like seven days, and then passed the Senate by a vote of 54 to 23. The friends of Senate bill 575, which is also a long and short haul bill, hope that it will not be necessary to discuss that measure at any great length.

There is another reason, Mr. President, why the friends of the pending measure hope that it will not be necessary to take up any great length of time of the Senate in the discussion of the bill, and that is that Senate bill 575 does not in any way interfere with any of the existing conditions on our railroads. Should it become a law, it will not change a single freight rate anywhere on any railroad in the United States, for the bill specially provides that any violations of section 4 that were in existence prior to the 7th of December, 1925, shall not be required to be changed except on the authorization of the Interstate Commerce Commission.

In order that the Senate may clearly understand what the proposed amendment to section 4 of the interstate commerce act really is, I send the pending bill to the desk—it is short—and I ask that it may be read.

The VICE PRESIDENT. The bill will be read.

The bill was read as follows:

Be it enacted, etc., That section 4 of the interstate commerce act, as amended, is hereby amended by adding thereto a new paragraph as follows:

"(3) No common carrier shall be authorized to charge less for a longer than for a shorter distance for the transportation of passengers or of a like kind of property, over the same line or route in the same direction, the shorter being included within the longer distance, on account of water competition, either actual or potential or direct or indirect: *Provided*, That such authorizations, on account of water competition, as may be lawfully in effect on December 7, 1925, shall not be required to be changed except upon the further order of the commission: *And provided further*, That the provisions of this paragraph shall not apply to rates on import and export traffic, including traffic coming from or destined to a possession or dependency of the United States."

Mr. GOODING. Mr. President, Senate bill 2327 differed materially from the pending measure in this respect: That bill provided that within a year from the time it became a law the Interstate Commerce Commission should eliminate all existing violations. I am satisfied that some Senators voted against the bill because of that provision. That was true of the senior Senator from Alabama [Mr. UNDERWOOD]. If that Senator shall be in the Chamber when the vote is taken on the pending measure he will vote for it. He voted favorably to its being reported out of the committee. So, with that provision eliminated, it is hard for me to understand how any Senator can oppose the measure, which merely provides that there shall be one governmental policy in freight rates on our railroads for all the people.

Mr. President, the friends of Senate bill 575 may be forced to take up considerable time of the Senate in the discussion of the measure, for never since I have been in the Senate has there been such an organized effort to defeat any measure as there is in this instance on the part of railroads and commercial bodies which are receiving preferential freight rates and on the part of commercial bodies and cities which expect to receive preferential freight rates. Strange as it may seem, some towns and cities whose only hope for development lies in the passage of this bill are also petitioning and begging their Senators to vote against this measure.

If there is any Senator upon the floor who feels that he can justify the discrimination in freight rates against interior points I hope we shall hear from him. If there is any Senator upon the floor who can justify the Interstate Commerce Commission permitting the railroads to charge more for the shorter haul than for the longer haul in order to destroy water competition—for that has been the purpose of every violation permitted by the Interstate Commerce Commission to the railroads to meet water competition—I hope that Senator will enlighten this body so that we may have his viewpoint. Again, Mr. President, if there is any Senator upon the floor who can justify the building up of great centers of population in America at the expense of the interior, which is already bringing a congested condition in some of our great cities which is dangerous to the Government itself, I hope that Senator may enlighten the Senate along that line.

Mr. President, nations, like individuals, have their birth, their youth, their manhood, and their old age. This country is just passing from its youth to its early manhood; it has just made a beginning in the development of its mighty resources; but if we are going to permit the railroads to destroy water transportation in America, then the growth and development of this mighty empire must soon come to a standstill for the lack of adequate transportation, for no country can grow and develop beyond its transportation. In this progressive age of ours no question enters into the life of all the people as much as that of transportation, and the country which has the most efficient transportation and the cheapest transportation will take the lead in the trade of the world. So, on the other hand, the State or community that is forced to meet a discrimination in freight rates has not even a fighting chance to develop its resources; capital will never invest in any industry in any State in the Union where it is forced to meet a discrimination in freight rates or where there is even a threatened danger of such discrimination.

For many years the interior of this country has been forced to meet a discrimination in freight rates and excessive freight rates. When I say "interior," I mean the farmers, for it is the farmers in the interior who, in a large measure, pay the freight rates and make up the loss that the railroads sustain in charging less for the longer haul than for the shorter haul in order to destroy water transportation. In the South and in the West this policy of our Government has destroyed water transportation on our inland rivers and to-day the river boats which were once a mighty factor in the commerce of America rot at their wharves.

The issue on Senate bill 575 is clearly drawn. Senators must decide by their votes whether there shall be one governmental policy as to freight rates for all the people, or whether the Interstate Commerce Commission shall be permitted to allow preferential freight rates to great cities and shall permit violations of the fourth section of the interstate commerce act in order that the railroads may destroy water transportation. Senators must decide by their votes whether the small communities in this country shall pay higher freight rates for the coal they burn, for the food they eat, for the clothes they wear, and for everything that goes to make up life in the interior than those paid by the great cities in the East and the cities on the Pacific coast, where violations of the fourth section of the interstate commerce act have never been permitted to destroy water transportation.

Mr. President, I think every Senator knows that in the last few days at least there has been a great lobby here in Washington such as I have never seen before on any occasion. The presidents of railroads, vice presidents of railroads, traffic managers representing great cities have stalked the Halls of Congress; Senators have been called out of this Chamber and importuned to vote against this measure. Those engaging in that activity have the right to do so, but I ask you what opportunity have the common people of America to present their case if Senators are going to yield to such an influence? I do not believe that Senators are going to yield to it, but never at any time since I have been in the Senate have Senators been flooded to the extent that is now apparent with telegrams from commercial bodies and from the railroads, especially from commercial bodies that are receiving preferential freight rates.

The responsibility of this Government does not rest with the railroads nor with the great cities that are receiving preferential freight rates. The responsibility of this Government rests upon the chosen representatives of the people. They always have and always will represent the people here in the Senate and in the House of Representatives; and this Government will endure if Congress gives to all the people a square deal in legislation, for that at all times is the test of government. If we are going to yield to this influence, which is all powerful, and permit cities and railroads to violate the spirit of the Constitution, then there is some doubt whether our institutions can be maintained under the selfish policy of the railroads and the great cities which have been enjoying preferential freight rates.

Mr. President, I shall have no trouble in showing the fallacy of the contention on the part of the transcontinental railroads that unless they are allowed violations that will permit them to take 50 per cent of the intercoastal trade through the Panama Canal westbound they will be forced to increase freight rates in the interior to make up the loss which they sustain on traffic that is taken away from them by the Panama Canal. This argument is so ridiculous to those who have studied the railroad problem and who understand railroad methods that it is an insult to the intelligence of any man who is familiar with the facts and circumstances of the case, for the reverse has always been true. Just as soon as the railroads destroy water transportation, when they are permitted violations of the fourth section of the interstate commerce act, they then proceed to increase freight rates. There is hardly an exception to that rule.

The old, old argument has been worn threadbare; and, strange as it may seem, they have alarmed some people in the interior whose very hope of development lies in the passage of this measure.

I shall have no trouble in proving that the Panama Canal brought a great development on the Pacific coast that has given the transcontinental railroads a hundred tons of freight for every ton of intercoastal freight that it has taken away from them that passes through the Panama Canal westbound; and that is the history of all water transportation where it is permitted to exist. Why, if Germany had been patient and had not forced upon the world the great World War, in a few short years the Germans would have dominated the world as far as trade was concerned. Germany permits water transportation to be used. Fifty per cent of all the freight carried in Germany is carried upon its rivers and its canals, while we in America have a policy of destroying it by permitting the railroads to short cut water transportation.

I shall have no trouble in showing that these contentions of the transcontinental railroads are not borne out by the records of the Interstate Commerce Commission and that the railroads are enjoying a prosperity to-day never dreamed of in the history of those roads.

Mr. President, I know of no one thing that has done so much to discourage the people of my State in their Government as

the violations of the fourth section of the interstate commerce act. I have seen my own neighbors go to Portland with a car of cattle, and on the same train would be a car of cattle from Dillon, Mont. The distance from Dillon to Portland is 920 miles. The distance from my station to Portland is 606 miles. My neighbor paid $138 a car, while the cattle grower from Dillon was asked to pay only $130 a car—$138 from my station, $130 from Dillon, a haul of three hundred and some odd miles longer than from my station to Portland.

I have seen sulphur pass through my station in a train from Texas going on to Portland. The freight rate paid at Payette, Idaho, on a car of sulphur was 95 cents a hundred. This train, almost a mile long, goes down to Huntington, where it is picked up by another division of the Union Pacific, the O. R. & N. The train that passes through my State, hauled by one engine, goes down to Huntington, where it begins its ascent over the coast range, and is chopped up into two trains with a double-header on each train, and the rate to Portland is 65 cents a hundred.

It is impossible to build a citizenship on such discriminations. It will be destroyed. There will be nothing left of it. There are hundreds of those violations all over the West and in the South. Arkansas, I think, suffers more from violations than any other State in the Union. Down there the farmers pay a higher freight rate for fertilizer than they do in other States where the haul is very much longer, passing right through the State of Arkansas.

Mr. ASHURST. Mr. President, will the Senator pardon an interruption at that point?

Mr. GOODING. Yes; I yield to the Senator.

Mr. ASHURST. I do not wish to interrupt the Senator's able speech, but I am in hearty sympathy with his views. This subject is one of transcendent importance to the people of the Middle West and the Pacific coast, and the Senator has not overstated or overemphasized the question when he says it is one that runs to the vitals of the building up of the West.

The Senator called attention to a discrimination. Will he pardon me until I illustrate a discrimination now openly and notoriously practiced by the Southern Pacific Railroad Co. in defiance of a conference order on the subject issued by the Interstate Commerce Commission on November 4, 1913?

In other words, we will assume that the point of origin of a shipment of goods is New York. For that shipment of goods to reach San Blas, Mexico, or Mazatlan or Guaymas, Mexico, that consignment must pass through Nogales, Ariz.; yet the charge is infinitely greater to carry it to the intermediate point in the United States than it is to carry it 800 miles farther into the Republic of Mexico.

Senators, contemplate that! These citizens of my State are required to pay a very much larger sum in freight on the transmission of goods from eastern points to their own intermediate point in the United States than is charged the subjects of a foreign country for carrying it 800 miles farther!

Mr. BRUCE. Mr. President, will the Senator yield to me?

Mr. ASHURST. I have not the floor. I thank the Senator from Idaho for yielding to me.

Mr. BRUCE. Will the Senator from Idaho yield to me?

Mr. GOODING. I yield to the Senator. I desire to state, however, that while, of course, I shall be glad to yield for questions, I hope I may be permitted to make my opening speech without much interruption. I shall be very glad, however, to yield to the Senator from Maryland.

Mr. BRUCE. I think the Senator is perfectly right. I merely want to say to the Senator from Arizona that this bill does not disturb that situation at all, because it has no application to either import or export traffic.

Mr. ASHURST. Mr. President, will the Senator pardon me until I reply to that?

Mr. GOODING. Yes.

Mr. ASHURST. I will read the conference ruling of the Interstate Commerce Commission:

NOVEMBER 14, 1913.

Paragraph 447. Application of the fourth section.

The provisions of the fourth section apply where the point of origin is in an adjacent foreign country and the intermediate point and more distant point of destination are in the United States, or where the point of origin and intermediate point are in the United States and the distant point of destination is in an adjacent foreign country.

It is precisely upon all fours, and in opposition to that conference report.

Mr. BRUCE. I suggest that the Senator read the bill.

Mr. GOODING. I will say for the benefit of the Senator from Maryland that I took up this particular case with the Interstate Commerce Commission, and was advised by one of the commissioners that they did not hold that goods going into Mexico were foreign exports. I do not know how they hold it, but that is my understanding of their holding. I was especially anxious to know about this.

Mr. BRUCE. I do not know a country in the world more foreign to the United States than Mexico.

Mr. ASHURST. Pardon me until I call attention to a letter signed on February 20, 1926, by the Interstate Commerce Commission, declaring that the Southern Pacific Railroad was in violation of the fourth section, and in violation of that conference ruling.

Mr. GOODING. I want to say to the Senator from Maryland that the Interstate Commerce Commission pay very little attention to laws as passed by Congress, and it it not strange that they do not pay much attention to the definition of foreign exports.

Mr. President, when the interstate commerce act was before Congress in 1887 the debates in Congress show that the friends of the interior made a valiant fight for an absolute prohibition in the fourth section of the interstate commerce act that would deny the Interstate Commerce Commission the right to permit the railroads to charge more for the shorter haul than for the longer haul; but the fight was lost, and the struggle has been going on ever since.

I am sure it can be said that no question in connection with our railroads has been discussed so much in Congress as the violation of the fourth section of the interstate commerce act, for at almost every session of Congress since the passage of the interstate commerce act on February 4, 1887, amendments have been offered to the fourth section of that act which denied the Interstate Commerce Commission the right to permit the railroads to charge more for the shorter haul than for the longer haul to meet water transportation.

When the interstate commerce act was passed in 1887, the fourth section of that act read as follows:

That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive a greater compensation in the aggregate for the transportation of passengers, or a like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line in the same direction, the shorter being included within the longer distance, but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however,* That upon application to the commission appointed under the provisions of this act such common carrier may in special cases, after investigation by the commission, be authorized to charge less for the longer than for shorter distances for the transportation of passengers or property; and the commission may from time to time prescribe the extent to which such designated common carriers may be relieved from the operation of this section of this act.

Very early in the history of this act the commission and the courts ruled that the dominating words of the act were "under substantially similar circumstances and conditions," and that it was for the carriers, in the first instance, to determine whether the circumstances and conditions were similar or dissimilar. If the conditions and circumstances were dissimilar, it was held that the rule did not apply. After a few unsuccessful attempts to stop discrimination by violations of the fourth section it became a dead letter, and little or no attention was paid to it.

On June 18, 1910, the fourth section was amended by striking out the words "under similar circumstances and conditions," leaving in the words "in special cases after investigation." This virtually made the section absolute so far as the railroads were concerned. It gave to the commission permission "in special cases after investigation" to grant the railroads the right to charge less for the longer than for the shorter haul.

The debates in Congress lead to the conclusion that Congress intended that "special cases" should mean exactly what the words imply—that the commission should not have authority to grant relief unless the carrier, by proper showing, made out a "special case."

The commission, in construing the amended section, ruled that the only change that had taken place was to transfer the determination of the right to charge less for the long than for the short haul from the railroads to the commission.

On February 28, 1920, section 4 was further amended by adding the words:

But in exercising the authority conferred upon it in this proviso the commission shall not permit the establishment of any charge to or from the more distant point that is not reasonably compensatory for the service performed; and if a circuitous rail line or route is, because of such circuity, granted authority to meet the charges of a more direct line or route to or from intermediate points on its line, the authority shall not include intermediate points as to which the

haul of the petitioning line or route is no longer than that of the direct line or route between the competitive points; and no such authorization shall be granted on account of merely potential water competition not actually in existence.

Mr. President, when the amendment to the fourth section of the interstate commerce act was passed in 1920 the friends of that measure believed that they had won a great victory, for the discussion of that measure on the floor of the Senate shows very clearly that the friends of that measure believed a reasonably compensatory rate on our railroads would be a rate that would earn operating expenses and interest on investments as well as dividends; but when the Interstate Commerce Commission passed on the words "reasonably compensatory," their ruling was to the effect that if the rate was not an out-of-pocket rate it was a "reasonably compensatory" rate. So the amendment of the fourth section of the interstate commerce act that was passed in 1920, like all other amendments to that act, became a dead letter.

Since the amendment of the fourth section of the interstate commerce act in 1920 we have this peculiar situation on our inland waterways: Under the amendment of the fourth section of the interstate commerce act in 1920 the Interstate Commerce Commission is denied the right to permit the railroads to charge more for the shorter haul than for the longer haul to meet potential water transportation, but as soon as that potential water transportation becomes actual water transportation, brought about by the expenditure of millions of dollars by the Government, the Interstate Commerce Commission can then permit the railroads to charge more for the shorter haul than for the longer haul to destroy water transportation.

Mr. PITTMAN. Mr. President——

The PRESIDING OFFICER (Mr. ODDIE in the chair). Does the Senator from Idaho yield to the Senator from Nevada?

Mr. GOODING. I yield.

Mr. PITTMAN. The Senator is so familiar with this subject that he might assume that most Senators are familiar with it. I take it that he means that the Interstate Commerce Commission grants a rate to the railroad at the competitive points along the water that is lower than a rate on which the railroads could exist if the same rates were put in force all along the line. Is not that the fact?

Mr. GOODING. That is the fact.

Mr. PITTMAN. In other words, there will be a rate from Pittsburgh to San Francisco of 80 cents on steel, while the rate a hundred miles short of San Francisco will be $1, because, as the Interstate Commerce Commission have stated in their reports, if they gave the 80-cent rate all along the line, it would bankrupt the railroads. Mr. Shoup, of San Francisco, the executive vice president of the Southern Pacific lines, said they could not afford to give the competitive rate to San Francisco all along the line for the shorter distance, because it would bankrupt the railroad. In other words, through the discretion of the commission to give a lower rate at the more distant points than at intermediate points, and to give a rate, as the Senator has already said, that is so low that it does not earn anything toward paying any profit to the road in the nature of dividends or interest or anything, the roads can, through that low rate, get half of the business of the Panama Canal. Is not that what the Senator means?

Mr. GOODING. That is correct; and if they take half of the business through the Panama Canal westbound, they will take half of it eastbound; and if these violations are granted, it is a well-known fact that they will ask for other violations, and the end will be that the railroads will destroy the usefulness of the Panama Canal for intercoastal traffic both eastbound and westbound. It is the purpose of the violations of the fourth section to meet water transportation. I do not think there is any question about that.

Mr. BRUCE. Mr. President, I had hoped I would not have any occasion to further interrupt, but, of course, the Senator from Idaho knows that the question put to him by the Senator from Nevada would involve a positive violation of law by the Interstate Commerce Commission, because in the exercise of its jurisdiction under the long-and-short-haul clause the Interstate Commerce Commission has no right to prescribe any rate that is not compensatory.

Mr. PITTMAN. Mr. President——

Mr. GOODING. I yield to the Senator from Nevada to answer the Senator from Maryland.

Mr. PITTMAN. The Supreme Court of the United States has held that in that particular case they may grant such a rate, by reason of the language in the statute; that the language in the statute does not mean the same thing as "reasonable compensation" as used in the law giving returns on the value of the company's property.

Mr. BRUCE. That is a fact, but still it must have an element of compensation in it. It may not have the element of full compensation—of course, it has not—but under the Federal statute the rate must be a compensatory rate. It must be in some substantial degree compensatory.

Mr. GOODING. If I may, I shall reach that point later.

Mr. BRUCE. I do not want to interrupt the Senator.

Mr. GOODING. Mr. President, all that the friends of Senate bill 575 are fighting for are the same rights, the same privileges, and the same opportunities for the development of the resources in their States that have been given to the States east of Chicago, where the violations of the fourth section to destroy water transportation have never been permitted. All we are fighting for is one governmental policy in freight rates for all of the people, regardless of whether they live in the East or the West, the North or the South; that is all, and nothing more.

Senate bill 575 is in no way a rate making bill. It merely defines the policy that the Interstate Commerce Commission shall follow in the future in dealing with freight rates to meet water competition. All this bill seeks to do is to prevent further destruction of water transportation in America by the railroads forcing the people of the interior to pay more for the shorter haul to make up the losses sustained by the railroads for the longer haul to destroy water competition. If this bill is passed, it will give the people of the interior a chance to develop their resources, which is impossible with the present policy of our Government, for capital will never invest in any industry, in any part of this country, where it is forced to meet a discrimination in freight rates, or where there is even a threatened danger of discrimination in freight rates.

For more than half a century the people of the interior of this country have been made the instrumentality for the destruction of water transportation; and in a large measure it is the farmers of the interior, Mr. President, who, through excessive freight rates, have reimbursed the railroads for the losses they have sustained in their fight for the destruction of water transportation. This struggle between the people of the interior and the railroads has been long, bitter, and severe, but with the Interstate Commerce Commission, a branch of our own Government, on the side of the railroads the struggle has been an uneven one, and the destruction of transportation on our inland rivers is almost complete.

On the other hand, on our inland waterways in the East, on the Great Lakes, and on the rivers where the violation of the fourth section of the interstate commerce act has never been permitted by the Interstate Commerce Commission, water transportation to-day is a mighty factor in the commerce of this Nation. On the Great Lakes 23 per cent as many ton-miles of freight were carried as were carried by all of our railroads; and on the Monongahela, the Ohio, and the Allegheny Rivers, where the violation of the fourth section of the interstate commerce act has never been permitted, there, too, water transportation to-day is a mighty factor in the commerce of the country.

Mr. President, it requires no argument to prove that the policy of our Government in not permitting violations of the fourth section of the interstate commerce act to destroy water transportation east of Chicago is the right governmental policy, for the wonderful development on the Great Lakes and on the rivers and canals east of Chicago tells its own story, and any effort on the part of the Interstate Commerce Commission to permit the railroads to impair in any way transportation on the Great Lakes or on the rivers east of Chicago would be denounced by the people in the East as a crime and an outrage. Yet the people of Chicago are demanding that this Government shall continue a policy toward transportation west and south of Chicago that has destroyed water transportation, and as long as we continue that policy there is not even a fighting chance for water transportation to exist, or come back, on our inland waterways in the South or in the West, for capital will never invest in river boats in any part of the country where the railroads are permitted to charge more for the shorter haul than for the longer haul to meet water transportation.

If the policy of the Interstate Commerce Commission is right in not permitting the destruction of water transportation east of Chicago, then it is right south and west of Chicago, for a governmental policy that is right in one part of this country is right in every other part of the country. And a governmental policy that develops one part of the country through discrimination in freight rates at the expense of another is a violation of the spirit of the Constitution and, in my judgment, is a dangerous policy to permit. For, if this policy of discrimination is continued, it will do much to destroy the respect and confidence of the people in their Government.

Mr. President, the great forces of nature were especially kind to America, for they gave this country more great inland waterways than to any other country on earth; and in the early history of this country our inland waterways were a mighty factor in the settlement and development of America. To me the destruction of waterway transportation by our own Government on our inland waterways is nothing less than a tragedy, and if we continue this policy we will soon reach a crisis in transportation in America that will bring the growth and development of this mighty empire to a standstill.

Mr. President, this Government has spent $1,250,000,000 for river and harbor improvements; but as far as the West and the South are concerned, practically every dollar that has been spent on our inland rivers has been nullified by the Interstate Commerce Commission permitting the railroads to charge more for the shorter haul than for the longer haul, to destroy water transportation. So it is not strange that appropriations for our inland waterways should be branded "pork-barrel" appropriations, for the country has known for many years that Congress was appropriating millions of dollars for the improvement of our inland rivers upon which not a pound of freight has been transported for many years.

We spent half a billion dollars building the Panama Canal; but if the railroads have their way, they will destroy its usefulness, for from the beginning the railroads fought very bitterly the building of the Panama Canal. Jim Hill, one of the great builders of our transcontinental railroads, used to say that before the railroads got through their fight against the Panama Canal that pond lilies would be growing in its channel. On numerous occasions he made the statement that the hour of 12 had struck in America for transportation on our inland waterways. At a joint meeting of the Western Intermediate Rate Association and all of the general freight agents of the transcontinental railroads, held in Salt Lake City three years ago, Mr. Blakely, general freight agent of the Northern Pacific, made the statement that the building of the Panama Canal, as far as the West was concerned, was a mistake and that it should be filled up.

I was present at that meeting, as a member of the Intermediate Rate Association, and branded Mr. Blakely's statement as un-American, for the Panama Canal is a mighty factor in the defense of our country, and it should be permitted to be a mighty factor in carrying the low-priced farm products and the low-priced basic materials between the East and the West, and in carrying these same products to the markets of the world.

Mr. President, the transcontinental railroads now have applications before the Interstate Commerce Commission for violations of the fourth section of the interstate commerce act on 47 different commodities from Chicago to Pacific coast points. In the applications the railroads are asking for reductions in freight rates from Chicago to Pacific coast points of from 20 cents to $1.66 per hundred, but no reduction is to be made to any of the interior points.

If the application of the transcontinental railroads is granted it will practically destroy the coastwise shipping through the Panama Canal. The railroads say they only want half of the coastwise traffic through the Panama Canal westbound; but if they can take a half of it, through these violations, they can take it all, and that is the purpose of the violations that the transcontinental railroads are asking for.

Mr. President, the fight that the interior territory of the West is making is a fight for its very existence, for its life; for, if these violations are granted, it will bring wreck and ruin to our jobbing houses and destroy the few small manufacturing industries we have to-day. They can not exist under such discrimination as the railroads are asking for in favor of Pacific coast cities. We believe there is a grave danger in the granting of these violations that the transcontinental railroads are asking. Commissioner Esch, of the Interstate Commerce Commission, who testified before the Interstate Commerce Committee on Senate bill 575, in his statement showed that 7 out of the 11 commissioners on the Interstate Commerce Commission were in favor of violations of the fourth section of the interstate commerce act, and that is not strange at all when we know what the mighty influence of the railroads will do in the affairs of this Government. So, Mr. President, the only way the interior can be saved from a discrimination in freight rates that will bring wreck and ruin to the interior is to pass Senate bill 575.

Mr. President, no body of men in all the world are given so much power as the members of the Interstate Commerce Commission, for under the interstate commerce act they control and regulate nearly half of all the railroad mileage in the world, upon which is carried one-half of all the railroad tonnage in the world; and under the fourth section of the interstate commerce act the Interstate Commerce Commission have the power to grant preferential freight rates to great cities, which they do—all at the expense of the growth and development of the interior.

Under the fourth section of the interstate commerce act, the Interstate Commerce Commission have the power to destroy our coastwise merchant marine. They have used that power in the past to cripple our coastwise merchant marine.

Under the fourth section of the interstate commerce act, the Interstate Commerce Commission have the power to destroy water transportation on our inland waterways, and they have used that power and have destroyed water transportation on our inland waterways in the South and on our inland waterways in the West, where hundreds of millions of dollars have been spent for the development of water transportation.

Under the fourth section of the interstate commerce act, the Interstate Commerce Commission have the power to say where our raw materials shall be manufactured into the finished product, and in what markets the products of these factories shall be sold.

Under the fourth section of the interstate commerce act, the Interstate Commerce Commission have the power to say what coal fields shall be operated at 100 per cent and in what part of the country the coal from these fields shall find a market. The Interstate Commerce Commission have forced some of the smaller communities of the country to pay a higher freight rate for the shorter haul, for coal they burn to keep them warm, than some of the greater cities pay for the longer haul, that are fortunate enough to have water transportation.

Mr. President, this is a dangerous power to place in the hands of any body of men, and I am sure it has done much to discredit our Government in the minds of the people who have suffered through these violations.

If Senate bill 575 becomes a law, it will take this dangerous power from the Interstate Commerce Commission, for it will deny the Interstate Commerce Commission the right to give great cities preferential freight rates at the expense of the interior, and it will deny the Interstate Commerce Commission the right to permit the railroads to charge more for the shorter than for the longer haul to destroy water transportation.

If Senate bill 575 becomes a law, Mr. President, it will make possible the development of the interior and the full use of our coastwise merchant marine, and the use of our inland waterways to carry the low-priced farm products and the low-priced basic materials to our own markets and to the markets of the world.

If Senate bill 575 becomes a law, it will permit every part of the country that has raw material to establish industries to manufacture the raw material into the finished product, and the Interstate Commerce Commission will no longer be able to force the people of some smaller community to pay a higher freight rate where less service is given than to some great city.

Mr. President, it is clearly the duty of Congress to lay down the policies for the Interstate Commerce Commission to follow in their regulation of railroads. To permit the Interstate Commerce Commission to employ their own views, unregulated and unrestricted, in the regulation of our railroads is fraught with grave danger to the Government itself; for after all, the members of the Interstate Commerce Commission are only human, controlled by the same selfishness that controls all humanity. Such grave responsibilities as the principle of the relation of transportation to the life of the Nation should not be delegated to any body of men, but should be laid down in legislation by Congress to guide and direct the Interstate Commerce Commission in the regulation of our railoads.

Ever since the creation of the Interstate Commerce Commission many of our best citizens have believed that railroad influence has dominated in a large measure the appointment of members of the commission, and sometimes I am afraid there is much in that contention. While I do not believe in Government ownership of railroads, yet if we are going to permit selfish interests to dominate the transportation policy of America and build up great centers of population at the expense of the interior and deny the interior the same rights, the same privileges, and the same opportunities to develop its resources that are given to the States east of Chicago—if that is to be the policy of the Government, then I shall be forced to favor Government ownership of our railroads, and all of the people in the interior will be forced into the position of fighting for Government ownership of railroads, because the people of the interior are not going to submit much longer to the discriminations that are forced upon them, all of which has been sanctioned by a branch of our own Government.

The West is not going to suffer much longer from this discrimination. I am not alone when I make the statement that

I am going to fight to the last ditch and to the last minute against any appropriation for new projects for the development of water transportation in America. I shall always be glad to vote for an appropriation to carry on those great projects which are already in operation. I shall always be glad to vote for such projects as the building of levees to protect the South from the great floods that occasionally rush down upon them. But so far as new projects are concerned I served notice in the last session that unless the West is given a square deal I am going to fight any appropriation for any new project just as long as God gives me strength enough to stand on the floor of the Senate and fight. It is a fight to the bitter end. I am fighting only for the same rights and the same privileges for the American citizen who lives in the West that the Government has given to the people in the East. That is all and nothing more, and if I did not fight for that principle I would not be worthy of a place in this great body.

In the Sixty-seventh Congress I introduced Senate Resolution No. 472. The resolution passed the Senate. It directed the Interstate Commerce Commission to inquire into the pressure that is brought to bear on the railroads by the great cities to apply for the violation of the fourth section of the interstate commerce act.

The Interstate Commerce Commission made the investigation, and on February 4, 1924, rendered its report to the Senate. I want to show the Senate the pressure that is brought by the great cities on the railroads to ask for violation of the fourth section of the interstate commerce act; and at the same time I want to show the Senate how violation of the fourth section of the interstate commerce act is given to the railroads by the Interstate Commerce Commission.

On June 18, 1910, the fourth section of the interstate commerce act was amended by striking out the words "under similar circumstances and conditions," leaving in the words "in special cases after investigation." The debates in Congress lead to the conclusion that "special cases" should mean exactly what the words imply, that the commission should not have authority to grant relief unless the carrier, by proper showing, made out a special case. Of course, Mr. President, there is no way for the carrier to make out a special case except by a hearing, and the courts have held that is just what those words imply. The report shows that 12,513 applications have been filed with the commission. Out of that number there were 5,776 applications granted, 4,393 denied, 1,059 withdrawn, 153 current applications not yet acted upon, and 1,329 so-called temporary applications filed prior to February 17, 1911, which are in effect. Out of 5,776 applications granted, on only 303 were hearings held.

In the hearings in the House on Senate bill 2327 during the last session, Commissioner Campbell of the Interstate Commerce Commission made the following statement:

> In the case of the Louisville & Nashville Railroad Co. against the United States and the Interstate Commerce Commission, the court rendered an opinion on June 3, 1915, in which the court, consisting of Warrington, circuit judge, and Evans and Hollister, district judges, said:
>
> "Coming then to the consideration of the evidence as a whole, we may premise several general observations. The requirement of section 4 that such authorization shall be made, if at all, 'after investigation,' clearly implies that the question shall be determined upon testimony and after a hearing."
>
> This case was carried to the Supreme Court, which affirmed the judgment of the lower court, holding the order of the commission to be valid, in an unanimous opinion rendered on January 17, 1918, the opinion being written by Mr. Justice Brandeis (245 U. S., 463).

It is my understanding that in this particular case the Interstate Commerce Commission held hearings which were objected to by the Louisville-Nashville Railroad Co.; yet in the face of this court decision the records of the Interstate Commerce Commission show that out of 5,776 applications granted there were only 303 applications on which hearings were held, and the records now show that the Interstate Commerce Commission continues to grant applications for the violation of the fourth section without hearings. In this report on Senate Resolution 472 there are some very interesting telegrams which passed between the Chicago Association of Commerce and the executive officers of the transcontinental railroads and their representatives. These telegrams show very clearly the pressure that is brought to bear by the great cities that want preferential freight rates. At the same time they show very clearly how the railroads have been able to secure so many violations of the fourth section of the interstate commerce act without hearings. I want to read some of these telegrams to the Senate in order that Senators may understand who the gentlemen are who are playing the principal part in these applications. I wish to say that Mr. J. P. Haynes occupies the position of traffic director for the Chicago Association of Commerce and Mr. R. H. Countiss is chairman of the standing rate committee of the Transcontinental Freight Bureau, an organization that includes all of the transcontinental railroads of this country.

On August 4, 1923, the Chicago Association of Commerce wired the Union Pacific Railroad Co. as follows:

> Please advise why fourth section application is not filed with the commission. After many conferences with shippers certain commodities and rates were agreed to on which relief was found necessary, and the subject has been dragging since February last. If more prompt action is not taken, shippers will make other arrangements and will not be interested. Wire answer.

This telegram was sent to all of the transcontinental railroads; and I think Senators can understand what it means when a great city like Chicago, one of the greatest industrial cities in America, says to the transcontinental railroads, "If you do not give us preferential freight rates, we will try to find some other way of shipping our freight to the West." And they would find a way. It is a threat by which they have driven the transcontinental railroads in line to ask for the violation of the fourth section of the interstate commerce act; and so long as the fourth section of the interstate commerce act remains and the Interstate Commerce Commission can permit the railroads to make application for these violations, it must be expected that great cities will force the railroads in line to ask for those violations.

I am not going to read all these telegrams, because they are all practically the same; the same threat is sent to all the transcontinental railroads. Here is one, however, I especially wish to call attention to; and there are one or two more. I now read a telegram from the Union Pacific:

> Fourth-section relief application all ready for presentation to commission, but lines think should be personally presented by committee of executives, feeling it would have more weight with commission if presented in this manner. Will probably be disposed of in a very few days.

Here is a great case in which the interior sections of the West and a part of the South are vitally interested, and these associations say in these telegrams that it will probably be disposed of in a few days and no hearings had.

Mr. KING. Mr. President, will the Senator from Idaho yield to me?

The PRESIDING OFFICER (Mr. WILLIS in the chair). Does the Senator from Idaho yield to the Senator from Utah?

Mr. GOODING. I yield.

Mr. KING. I ask for information whether the hearings which I have before me, but have not had an opportunity to examine in detail, show that the jobbers and other shippers in and about Chicago, and in that area which might be denominated the Chicago district, are taking the same position now that they took a year ago as revealed in the hearing, namely, that they should have preferential rates to the disadvantage of the intermountain region as well as other sections between the Mississippi River and some parts of the Pacific coast?

Mr. GOODING. Oh, yes. I will say to the Senator from Utah they are doing that. There is a renewed effort, and there is evidence here in the Senate and in the Capital City and in the Halls of Congress in great abundance to show that they are renewing their attempt more vigorously than before.

Here is a telegram sent by Mr. Countiss, who is chairman of the executive committee of the Transcontinental Railroad Traffic Association. This is the last telegram I shall read. It was sent, as I have stated, to the Union Pacific Railroad Co.:

> Fourth-section application all ready for presentation to commission, but several lines think should be personally presented by committee of executives. Understand Santa Fe and Northern Pacific in correspondence with other executives on this point. California lines had originally suggested personal presentation by me, but such personal presentation would carry no weight with commission.

So it was concluded in presenting this application for the violation of the fourth section that the presidents of all the transcontinental railroads should appear in a body and ask for it, and all without hearings. They did appear, but fortunately for the West there was some new blood upon the commission which had the courage to say, "No; under the law we must hold hearings on these applications." And hearings were held. That was two years ago. A report was made, but that application is now pending. The people of the West believe, Mr. President, if it had not been for the new blood on the commission that the applications would have been granted immediately.

The people of the West also believe that if it had not been for the fact that Senate bill 2327 passed the Senate by an

overwhelming vote, those applications would have been granted long ago. The people of the West further believe that the tremendous effort that is now being made to defeat Senate bill 575 is all for the purpose of securing an opportunity for the violation of section 4 as to 47 different commodities, which would bring wreck and ruin to almost half of the territory of the United States. There can be no doubt about that.

The Chicago Tribune sent a representative of that great newspaper to testify before the Interstate Commerce Committee of the Senate against Senate bill 575, the measure now under consideration. That representative boasted that the city of Chicago had a greater population than had all the Western States that were asking for the protection of their own Government. Unfortunately that is true and will always be true if we in the West are to be discriminated against.

In the lifetime of men in the Senate, Chicago has grown from a Indian trading post to be the second largest commercial city in America, with a population of more than 3,000,000. Chicago is not satisfied with its wonderful growth and development. So it is Chicago that is asking that violations of the fourth section of the interstate commerce act be permitted; it is Chicago that is pressing the transcontinental railroads, as I have shown from these telegrams, for permission to make such violations.

Mr. President, in another half century we will have a population in this country of something like 220,000,000. If we are going to continue to build up great cities at the expense of the interior as we have in the past through preferential freight rates, many of our great cities in another half century will have increased in their population by three-fold, and here in America we will have the greatest cities in all the world. New York City will have a population of from fifteen to twenty millions; Chicago will have a population of between ten and fifteen millions; here in America we will have congested centers of population equally as great as those of Europe, if not greater. In my opinion, Mr. President, nothing is more dangerous in America than the policy we have been following in the past of building up great centers of population at the expense of the interior, for a city can be too great and a population can be too dense for the best interests of good government and for economical production. If we continue this policy in America, the cost of production will become so great we shall not longer be able to compete in the markets of the world, and then we shall be confronted with an army of unemployed, which, as we all know, is the most difficult problem and often the most dangerous problem for any Government to meet.

The representative of the Chicago Tribune called this policy of building up great centers of population at the expense of the interior "the American plan" for the operation of our railroads. God pity America, Mr. President, if this is an American plan for the operation of our railroads and is to be fastened on the American people for all time. At the same time the great city of Chicago is trying to destroy coastwise shipping through the Panama Canal. It is asking for two great waterways—the Illinois waterway down to the Mississippi and the St. Lawrence waterway through the Great Lakes that will move the Atlantic Ocean a thousand miles inland to Chicago and permit great ocean steamers to tie up at the Chicago wharves.

If Chicago wants these two great inland waterways, let her come with clean hands, not with what she calls "the American plan" for the operation of our railroads, that will destroy all water transportation of America except where the people are strong enough politically to stop this criminal policy.

I am for the development of water transportation, Mr. President; I am for the building of the Illinois waterway, and I am for the building of the canal down the St. Lawrence that will permit, as I said before, great ocean steamers to tie up at the Chicago docks; but why build any more waterways in America unless we are going to have a policy in this country that will make possible the use of our inland waterways upon which we have already spent hundreds of millions of dollars.

Mr. President, in speaking of America a great English historian once said:

> As long as you have a boundless extent of fertile and unoccupied land your laboring population will be more at ease than the laboring population of the Old World, and while that is the case the Jefferson politics may continue to exist without causing any fatal calamity. But the time will come when New England will be as thickly populated as old England. Wages will be as low and will fluctuate with you as with us. You will have your Manchesters and Birminghams, and in those Manchesters and Birminghams hundreds of thousands of artisans will assuredly sometimes be out of work. Then your institutions will be fairly brought to the test.

We have reached that milestone in American history, for our public lands are practically all gone, and there is no longer an opportunity for the great cities to relieve their congested conditions by the people finding new homes on the public domain. While we have only made a beginning in the development of this mighty empire, yet if we are going to continue in America a policy which will not permit the development in every part of the country of the resources that the great forces of nature have given us with so generous a hand, then the growth and development of this country must soon come to a standstill.

Our population is increasing at the present time at the rate of 2,000,000 a year, and no part of this increased population is finding new homes on the public domain. It is said that with the young men and young women who are leaving the farms, and with the abandonment of farms taking place, our cities are increasing their population over two million every year.

Mr. President, we are now in the heyday of our prosperity after a World War that has added billions of dollars to the wealth of the industrial cities of America, but, I am sorry to say, not a dollar to the great agricultural districts of America. Yet with all of this great prosperity, that is unequaled in the annals of the world, and when there is work enough for everyone who is willing to work, at the highest wage since the dawn of civilization, we have more crime in America than in all of the Old World combined. The great city of Chicago, which is pressing on for this "American plan" for the operation of our railroads, averages one murder a day for every day in the year, while in all of England and Wales combined in 1923, with a population of 40,000,000, as against Chicago's 3,000,000, there were less than 200 killings.

In the first three months of the year of 1925 there were reported in Chicago 636 robberies at the point of a gun—7 a day—while in London, with a population more than twice that of Chicago, robberies ran between 20 and 40 a year.

In 1919 the report of the American Bar Association shows that there were only 29 highway robberies in all of France, while San Francisco had 258; Washington, 323; Chicago, 1,862; Louisville, 241; and St. Louis, 1,087.

The committee on law enforcement of the American Bar Association pointed out that during a 10-year period nearly 100,000 citizens had perished by poison, pistol, knife, or other unlawful and deadly injury. Further, the bar association reports that in no year during the past 10 did the number fall below 8,500. This figure apparently increases every year. In 1924 there were more than 11,000 homicides in the United States. In the whole of France in 1919 there were only 585 murders. Six cities of the United States—Detroit, Cleveland, Los Angeles, New Orleans, Cincinnati, and Indianapolis—had more than that during 1924. Where a group of 30 American cities in 1910 showed a rate of 5 homicides for every 100,000 population, the same group at the present time shows a rate of 10 homicides for every 100,000.

Mr. President, strange as it may seem, our great cities, because they are great and offer the railroads a greater tonnage, think they are entitled to better freight rates over the railroads than the smaller communities that have but little freight to offer. In answer to a question asked a representative of the city of St. Paul who appeared before the Interstate Commerce Committee in the hearings on Senate bill 575, he frankly admitted that it was his contention that great cities that had a greater tonnage to offer were entitled to better freight rates than the smaller communities; and he, too, called this the "American plan" for the operation of railroads.

Of course, this is the policy that the Interstate Commerce Commission is putting into effect through the violation of the fourth section of the interstate commerce act; and through that policy it is not hard to understand how our great cities will grow greater, and our small communities grow smaller, until the great cities, owing to the congested condition of their population, will become a menace to the Government itself.

It was through legislation that Congress stopped discrimination in freight rates between individuals by making it unlawful for the railroads to grant rebates to favored shippers. Congress should make it unlawful to permit the railroads to violate the fourth section of the interstate commerce act to meet water transportation, which is nothing less than granting rebates to favored communities, and is a hundred times more dangerous to the interests of good government than permitting the railroads to rebate to favored shippers, for when you permit discrimination in freight rates toward any community you destroy its opportunity to develop its resources; and I am sure the Senators understand what discrimination means to any in-

dustry, to any community, and to the citizenship which suffers from these discriminations in any State in the Union.

Mr. President, on the 27th of February the citizens of Chicago sent to the Senate of the United States the most remarkable document ever presented to this body. It was presented by the Vice President, the President of the Senate. This social condition that the selfish interests of America are forcing upon the country through preferential freight rates is of such vital importance to the American people that I send to the desk and ask to have read an article that appeared in the Washington Post of Sunday morning, February 28.

The PRESIDING OFFICER. Without objection, the article referred to by the Senator from Idaho will be read at the desk.

The Chief Clerk read as follows:

[From the Washington Post of February 28, 1926]

UNITED STATES ASKED TO RID CHICAGO OF REIGN OF LAWLESSNESS—DAWES DELIVERS CITIZEN PLEA TO SENATE—ALIENS ARE BLAMED—OFFICIAL, ACCUSED, CALLS CHARGES LIES—POLICE LEND AID TO CRIME, PETITION SAYS—MAYOR DEVER PROMISES INVESTIGATION

An appeal to the Federal Government to rescue Chicago from a reign of lawlessness under alien domination was presented to the Senate yesterday by Vice President Dawes at the request of the Better Government Association of Chicago and Cook County.

Alleging a coalition between the underworld and enforcement officials, the petition declared that the community was helpless and that citizens were compelled to surrender many of their rights without protest.

"There has been for a long time in this city of Chicago," the petition said, "a colony of unnaturalized persons, hostile to our institutions and laws, who have formed a supergovernment of their own—feudists, Black Handers, members of the maffia—who levy tribute upon citizens and enforce collection by terrorizing, kidnappings, and assassinations.

INVOLVE PUBLIC OFFICIALS

Evidence multiplies daily that many public officials are in secret alliance with underworld assassins, gunmen, rum runners, bootleggers, thugs, ballot-box stuffers, and repeaters; that a ring of politicians and public officials, operating through criminals and with dummy directors, are conducting a number of breweries and are selling beer under police protection, police officials, working out of the principal law-enforcement office of the city, having been convoying liquor—namely, alcohol, whisky and beer—and that one such police officer who is under Federal indictment is still acting as a police officer.

The petition was presented in person to Vice President DAWES by Dean Edward T. Lee, of the John Marshall Law School, acting president of the Better Government Association, and Dr. Elmer L. Williams, director of law enforcement of the association. The document was referred to the Senate immigration committee.

WANT ALIENS DEPORTED

It is urged in the petition that this committee make a complete investigation of the whole situation in Chicago with a view to having deported those aliens who are alleged to form the backbone of outlawry in the Nation's second largest city.

Although he is not named, State's Attorney Robert E. Crowe is especially assailed in the petition, particular reference being made to the Morrison hotel banquet to that official by the late Tony Genna when he was in power. Genna and two of his brothers later were killed in one of Chicago's frequent gang wars.

The petition asserts that more than 100 bomb outrages have been perpetrated in the city in the last year and that there have been no convictions except where the defendants pleaded guilty. Even then, they were released without adequate punishment, it was asserted.

LIES, CROWE'S RETORT

CHICAGO, February 27.—Denials and new accusations of conniving with outlaws followed receipt here late to-day of news from Washington that Vice President Dawes had presented to the Senate the Chicago Better Government Association's petition for congressional investigation of conditions here.

Robert E. Crowe, State's attorney for Cook County, the chief figure aimed at, denied allegations made against him and called Dean Edward T. Lee, of the John Marshall Law School, and Dr. Elmer L. Williams, director of law enforcement for the association, liars, coupling the association with them in that category.

Crowe denied he ever attended a banquet given by the Gennas, several brothers of Italian parentage who rose to domination of the Chicago bootlegging field only to be smashed by the assassinations in quick succession of three of the brothers.

Crowe termed the petition presented by the Vice President cheap publicity by Mr. Lee and the Rev. Mr. Williams "in their campaign to put over 'Diamond Joe' Esposito and other candidates like him" in the coming primary.

Esposito thereupon unlocked his lips and poured forth a further arraignment of the prosecutor.

FRESH ACCUSATIONS MADE

He accused Crowe of having used "Jim" Genna as a bearer of threats in his first campaign for State's attorney. Later, after Esposito refused to support Crowe for reelection, he said, Crowe sent detectives repeatedly to raid the Esposito restaurant.

Mr. Crowe is the chief figure aimed at, said S. J. Davis, superintendent of the Better Government Association, with lesser lights, including some Chicago aldermen, policemen, and ward committeemen. Mr. Davis said Morgan Collins, chief of police, was not involved, since the policemen were under civil service and not directly in the chief's power. Deportation of alien gunmen was a matter more or less minor, said Mr. Davis, when compared with the inactivity of the State's attorney to halt outlawry through use of the grand jury.

Meanwhile, the forty-first man, slain in gangland warfare recently, was given a military funeral to-day when Edward Baldelli was buried. Baldelli was reputed to be chauffeur for Razio Tropea, "The Scourge," who was slain 10 days ago, and who, in turn, was held responsible for luring Henry Spingola, wealthy brother-in-law of the Gennas, to his death.

Frightened by police and Federal raids on their usual places of congregation, alien gunmen subject to deportation have transferred their headquarters to Cicero, a suburb, into which the city police can not reach.

More than a half dozen men, culled from more than 100 taken in raids, are held for deportation.

Foreigners in unprecedented number also were flocking to the Federal building seeking naturalization and whatever protection "first papers" will offer. In four days 763 have applied, as against 403 for the same period in 1925.

Before news of the congressional petition was received Mayor William E. Dever has joined Federal authorities to-day in promising a full investigation of charges of prohibition enforcement graft charges, involving policemen and politicians, made by a saloonkeeper.

"I hope the authorities will go to the bottom of this, no matter who it hits," said Mayor Dever. It was disclosed that Leo Klein, assistant United States district attorney, was prepared to summon before the Federal grand jury four witnesses to corroborate the story told by the saloonkeeper of paying $100 a week for police protection.

It was understood information was in the hands of the Federal prosecutor involving several other policemen, including a captain, and several politicians.

[At this point Mr. KENDRICK suggested the absence of a quorum, and the roll was called.]

Mr. GOODING. Mr. President, I am not one of those who believe there is any danger of the downfall of this Republic, but I wonder what may happen in the great congested centers of America, where to-day there is so little respect for our laws and our institutions, when hard times come again, as they will, and free soup houses and bread lines have to be established, as they have in the past, to prevent death from starvation. It will be then, Mr. President, when the laboring man hears his children crying for bread and there is no bread and no work, that the lawless element in our great cities, which has so little respect for our laws and our institutions, will lead the mob, a mob that has felt the pinch of hunger—then that our institutions will be fairly brought to the test, and if we are going to continue building these great centers of population at the expense of the interior, then, Mr. President, I am afraid there is some danger that the prophecy of that great English historian, Lord Macaulay, may some day come true.

I have here a part of an address by Hon. George W. Anderson, late a member of the Interstate Commerce Commission, delivered on April 11, 1918, before the Boston City Club. This is so important and carries out so well the line of argument I am making in regard to the building up of congested centers of America, where the cost of transportation has increased, that I want the Senate to hear it. He also calls attention to the danger of the social condition that such a policy forces upon a country. This address of Judge Anderson should have weight at least with the Senators from New England, and I ask that it be read from the desk.

The PRESIDING OFFICER (Mr. MCNARY in the chair). If there is no objection, the clerk will read as requested.

The Chief Clerk read as follows:

But a large part—and I think the weight of opinion is the larger part—of the decay of water-borne traffic has been due to artificially competitive rates. The long-and-short-haul provision of the interstate commerce act has been allowed to be set aside in order to meet water competition, and "meeting water competition" has commonly resulted in the destruction of water competition.

During the last few years this destruction of water competition has reacted upon the carriers. When a rail carrier is saturated with traffic, additional traffic, causing congestion or a tremendous expense for new facilities, is disproportionately expensive and therefore unremunerative.

Until June 30, 1915, the rail carriers of the country wanted all the traffic there was.

But during that year some of them became engorged, congested, overburdened. A large share of the locomotives which would normally have gone to our rail carriers went abroad. This made a bad situation worse. Then, almost for the first time in two generations, the American people awoke to the fact that they had been foolishly destroying transportation facilities furnished them by Divine Providence. Our canals have been in large numbers abandoned or little used. Canal transportation has been decadent from 1840. So also as to our rivers and, to a large degree, to our coastwise transportation.

But, passing what we hope are the short-lived troubles of the war, the relation of rail transportation to a properly developed water transportation is of fundamental and permanent importance. As I probe deeper into the rate structure and try to analyze fundamental transportation facts, I am surprised to find the exent to which the growth of large cities has been due to preferential rates.

Railroad managers have come almost instinctively to regard water traffic as something to be done to death, fought without quarter.

The destruction of water facilities is not the only untoward result of this unwise and injurious sort of competition. Rates, originally low but possibly remunerative, have given such advantage to certain cities that these cities have grown disproportionately, absorbing to themselves an overload of traffic with a resultant increasing terminal charge, generally absorbed by carriers, so that it is plausibly claimed there are very many long through rates between our larger cities which, including terminal charges, show an actual, substantial out-of-pocket loss.

Manifestly these railroads must become bankrupt or assess an unduly high charge upon intermediate and noncompetitive traffic. This results in subsidizing the undue growth of large cities and suppressing the proper growth of smaller cities and towns. I need not now dwell upon the disturbing social, political, and moral problems of our overgrown cities. We all agree that excessive urban growth is one of the evils of our modern society. In some of our cities the seemingly fundamental problem of housing the working population remains unsolved and now confronts us as a war matter of first importance. Few people have had any adequate recognition of the extent to which that urban overgrowth has been caused by artificially competitive rail rates.

Mr. GOODING. Or, I might say, preferential rates, all of which, as is so clearly stated, must be made up on the smaller towns and the smaller communities. In my judgment it is nothing less than a crime.

Mr. President, Senators will give little weight to what I may have to say on this question, but it seems to me that a message such as that, coming from a man who has served as a member of the Interstate Commerce Commission, who speaks from experience, who now occupies a high position on the bench in the great Commonwealth of Massachusetts, ought to carry great weight. These messages come from men who are in such positions in our national life that it can not be said they are prejudicial. They are only appealing for the best interests of this great Government of ours.

I have a statement by Colonel Keller, now Major General Keller, of the Board of Engineers, United States Army, a man who has spent his life in the building of American waterways and who speaks from years of experience. His statement is brief and I shall read it. Surely Senators ought to be guided somewhat by the opinions of men who have served in such high position, men who can speak from years of experience. I realize that Senators can not have a grasp of all the great problems of our great Government, at least not the intimate grasp that such men as Colonel Keller may have who have studied these particular matters for a lifetime. Colonel Keller said:

> We already knew—we knew before we started—that there was little or no navigation. We also knew that there was comparatively little interest on the part of the various local communities that seemingly ought to be very much interested in river navigation. We found out that the causes of this condition were the familiar causes that had been reported by one commissioner after another.
>
> And second, there is the fear of hostility on the part of the railroads. It is possibly a familiar fact to this committee that the railroads do discriminate in their dealings with people who attempt to use our inland channels. That they have the right to discriminate in this fashion no one will maintain, but they practically do discriminate no one will deny.
>
> But foremost of all, most fundamental of all, is the detrimental effect of the rail rates to river points. I am convinced that no really successful navigation can be established unless the present structure of rail rates is completely revised.
>
> At present the river communities do not pay their just share and traffic is handled to river points at unremunerative rates. Of course, the ultimate effect of that condition is to render transportation unprofitable and practically impossible. The fundamental cause of trouble was exposed many years ago and has been emphasized again and again. There is no novelty in the conclusions to which I have come, and I will say that when I speak in the first person I speak the views of the committee. We believe that without this primary change in railroad rates comparatively little can be done to establish a really useful and prosperous traffic upon our inland navigation routes.
>
> Our remedy is to change the law, and that is perhaps more easily said than done. But I think we all concede that this is the evil that must be cured, that railroads should not be permitted to discriminate in favor of certain communities and against others. That is what it amounts to. When they carry freight below cost to river points in any part of the country they must recoup themselves by getting an extravagant and unjust profit on some of the rest of the business, the business to inland points.

So Colonel Keller tells the story of the discrimination in freight rates so far as the interior is concerned and the impossibility of developing water transportation as long as the Interstate Commerce Commission is permitted to grant permission to the railroads to violate the fourth section of the interstate commerce act.

I have also a statement made by General Goethals before the Rivers and Harbors Committee of the House of Representatives, when the Louisiana and Texas intracoastal waterway project was before that committee for consideration. On page 37 of the report the chairman asked General Goethals:

> Is this potential commerce going to become actual commerce?

To which General Goethals replied:

> I think it will. In the early days when construction of railroads received such an impetus they were unregulated. Their rates were anything they chose to make them. As soon as water development appeared in competition with railroads, the railroads promptly choked it off. I was sent down in 1890 to open the Muscle Shoals Canal, which had been dragging along, in order to get preferential rates for the city of Chattanooga. Muscle Shoals Canal was opened, the Interstate Commerce Commission held hearings, and the rates were reduced. They had organized a company on the Tennessee River which was to navigate from Chattanooga to the mouth of the river, through the canal. A few months after the inauguration of the new rates, and the establishment of this water transportation, the steamboats and the barges stopped running. I found out that the railroads had acquired a majority of the stock and stopped operation. The freight rates immediately went up. In time a competing line was established with the same process as previously existed.

Mr. President, it must be accepted that when Congress passed the transportation act of 1920 that it meant just exactly what it said in section 500, which reads as follows:

> It is hereby declared to be the policy of Congress to promote, encourage, and develop water transportation, service, and facilities in connection with the commerce of the United States, and to foster and preserve in full vigor both rail and water transportation.

But it is impossible to carry out the provision of section 500 of the transportation act passed in 1920 as long as the Interstate Commerce Commission is permitting the railroads to charge more for the shorter haul than for the longer haul to meet water transportation. The only way the provision in section 500 of the transportation act of 1920 can be carried out is to take from the Interstate Commerce Commission the power to destroy water transportation.

Mr. President, the most far-reaching statement and the most interesting statement, in my judgment, that has ever been made before the Interstate Commerce Committee of the Senate, on transportation and especially water transportation, was made by General Ashburn in the hearings on Senate bill 575. I am going to refer only briefly to one or two statements made by General Ashburn at this time, because in my judgment, General Ashburn's statement is so important to the American people that its importance should be set out very fully to the Senate, which I am unable to do while discussing other phases of this important measure. But the importance of General Ashburn's statement will be given full consideration in the course of the debates in the Senate. That matter I will leave to the Senator from Nevada [Mr. PITTMAN], who was fighting for an amendment to the fourth section of the interstate commerce act long before I came to Congress. I am sure that he will discuss General Ashburn's statement in a manner that will be clear and readily understood. General Ashburn speaks with the authority of experience in the operation of our Government boats on the Mississippi and the Warrior Rivers for the past five years.

Mr. President, no one could listen to this statement before the Interstate Commerce Committee without being impressed with General Ashburn as a great executive and one who is entitled to the congratulation of the American people for the success he has made in the operation of the Inland Waterways Corporation, for he has clearly demonstrated by transportation on the Mississippi and Warrior Rivers that if we will give our waterways a fighting chance to exist they can be of great service to the American people.

My name and title are Thomas Q. Ashburn, brigadier general, United States Army, chairman and executive of the Inland Waterways Corporation, a body charged by Public, 158, 1924, with carrying into effect the congressional policy of "promoting, encouraging, and developing water transportation, and of fostering and preserving in full vigor both rail and water transportation." I have been engaged in this business exclusively since March 1, 1920, when certain transportation facilities were turned over to the Secretary of War by the Railroad Administration under the transportation act, 1920, for continued operations.

It was at my instance, and as a result of my studies and practical operations, that Congress established the Inland Waterways Corporation, with all the powers necessary to fulfill the object and purpose of its creation; that is, the carrying into effect of the policy of Congress above stated.

This corporation operates a large fleet on the Mississippi River between St. Louis and New Orleans, on Mississippi Sound and coastal water to Mobile, and from Mobile to Birmingport and Cordova. This corporation has a capital stock of $5,000,000 and assets and equipment appraised by the American Appraisal Co. of about $10,000,000. It has set for its goal the reestablishment of great common carriers by water, acting in cooperation with and not destructive competition against rail transport.

In approaching this objective much has been learned, and it has been necessary to study causes and effects and seek remedies, all of which inevitably centered around the interstate commerce act, under whose jurisdiction, to a certain extent, this corporation functions. The bill under consideration has a distinct bearing upon our successful operation.

Other acts of importance in their bearing on this whole policy of Congress are the shipping act, the merchant marine act, and the Panama Canal act.

In the study of cause and effect, it soon developed that the destruction of inland-water transportation and the building up of the present structure of rail rates are so correlated that in fairness to all concerned they should be considered together.

I believe that Congress was in earnest when it gave that expression of its policy. I know it was in earnest when it created the Inland Waterways Corporation and placed upon it the necessity and the duty of enforcing the policy which it expressed; but so long as it remains in the power of the railroads to reduce their rates on account of actual competition to such a point that they can kill water transportation, water transportation can not come back. It is essential, so far as I can see, from a waterways standpoint, that the railroads should have said to them now and effectively: "You have used these practices in the past, but the time has come to stop them. When we said we meant to encourage the waterways we meant what we said. And you can no longer invoke this clause, the short-and-long-haul clause, because we intend to have water transportation come back."

In so considering them there should be traced the underlying causes, if possible, as to why the present status exists in regard to transportation, and then to present logical reasons why the present situation, so intolerable to many, should be modified.

On page 44 of the first part of the hearings on Senate bill 575 General Ashburn says:

The necessity for the passage of this act to me is so paramount that I am glad to have the opportunity of appearing here. I will probably be followed by rate experts. I do not claim to be a rate expert. You will have a mass of specific data presented to you that will befog you so that you will not know where you will stand unless you are a rate expert, and it takes from 30 to 40 years to become a rate expert.

There is a basic principle involved. Congress has decided that it is their intention to protect, foster, and develop waterways and to foster and preserve in full vigor both rail and water transportation.

If that is done, then what are the railroads going to do? They are going to devote their energies to something beside destroying water transportation. You will find, if you could analyze it, that a large part of the so-called losses that the railroads have are losses which are due to rates which have been put in effect primarily to destroy water competition.

In my opinion, if this bill is passed the creative genius of our railroad executives will soon find a way to build up our interior, not stifle it. Coastal cities are not great of themselves, but because of the interior behind them. If the concentrated efforts of our transcontinental lines be directed toward the development of our interior States, cities, and towns west of the Mississippi, into something besides agricultural, mining, or cattle centers, they will soon find in operation the pleasing cycle of cheap transportation resulting in the creation and development of manufacturing centers that will in turn feed our railroads and make them prosperous.

They will find that by the proper use of our waterways—which is in cooperation and coordination with the railroads—they will be saved a very large part of the billion dollars a year they deem necessary to spend for the next 10 years to meet the increasing demands of transportation and increasing commerce, and to annihilate waterway transportation.

Mr. President, I offer for the RECORD a list of the 47 different commodities on which the transcontinental railroads are asking for a reduction from Chicago to Pacific coast points, and ask that this list may be printed at this point in my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list is as follows:

Forty-seven commodities on which transcontinental railroads are asking a reduction from Chicago to Pacific coast points

Commodity	Minimum	Present rate	Proposed rate	Reduction
Ammonia, phosphate of	50,000	$2.66	$1.00	$1.66
Ammunition	40,000	1.40	1.10	.30
Compounds, boiler	60,000	1.10	.90	.30
Dry goods	40,000	1.58	1.10	.48
Electric appliances	50,000	1.20	.90	.30
Iron and steel articles:				
Pipe bands and rods	80,000	1.20	.75	.45
Bar iron, etc	80,000	1.00	.75	.25
Shingle bands and ties	80,000	1.00	.75	.25
Billets and blooms	80,000	1.00	.75	.25
Bolts and nuts	80,000	1.00	.75	.25
Horseshoes	80,000	1.00	.75	.25
Castings and forgings	50,000	1.20	.90	.30
Plate and sheet	80,000	1.00	.75	.25
Sheet iron, corrugated	50,000	1.15	.90	.25
Boiler flues	40,000	1.25	1.00	.25
Do	60,000	1.00	.75	.25
Nails and spikes	50,000	1.30	1.05	.52
Do	80,000	1.00	.75	.25
Cast-iron pipe	60,000	1.00	.75	.25
Pipe fittings	60,000	1.00	.80	.20
Structural iron and steel	40,000	1.25	1.00	.25
Do	80,000	1.00	.75	.25
Soda alumini	50,000	1.20	1.00	.20
Magnesium sulphate	60,000	1.20	1.00	.20
Packing-house products	40,000	1.60	1.20	.40
Paint	50,000	1.25	1.00	.25
Paper and paper articles:				
Bags	40,000	1.25	1.00	.25
Bags, gummed and tissue paper	40,000	1.35	1.00	.35
Bags, books, etc	40,000	1.25	1.00	.25
Boxes	40,000	1.25	1.00	.25
Boxes, fiber, pulp, or strawboard	40,000	1.35	1.00	.35
Labels	50,000	1.35	1.00	.35
Wall paper	40,000	1.35	1.00	.35
Carpet lining	40,000	1.25	1.00	.25
Do	40,000	1.35	1.00	.35
Book paper	40,000	1.25	1.00	.25
Do	40,000	1.35	1.00	.35
Writing paper	40,000	1.25	1.00	.25
Paper, news, poster, etc	40,000	1.25	1.00	.25
Tissue paper	40,000	1.35	1.00	.35
Wrapping paper	40,000	1.25	1.00	.25
Rails and fastenings	80,000	1.00	.75	.25
Axles, wheels, and forgings	60,000	1.00	.75	.25
Rice and rice products	60,000	1.05	.75	.30
Roofing material	50,000	1.10	.90	.20
Rosin	60,000	1.20	.75	.45
Soap	60,000	1.25	1.00	.25
Sodium	60,000	1.00	.75	1.00
Tinware	22,000	1.86	1.50	.36
Vehicles, self-propelling, viz:				
Pressed-steel car sides	40,000	1.25	1.00	.25
Do	80,000	1.00	.75	.25
Cable rope	50,000	1.20	.90	.30
Wire rods	80,000	1.00	.75	.25

Mr. GOODING. I am not going to take up time in the discussion of all the violations of section 4 of the interstate commerce act, but I want to call the attention of the Senate to a few of them. In doing so, I wish to use the map that is hanging on the wall of the Chamber, because I believe in that way I can better describe them.

The first line on the map west of Chicago that I want to call the Senate's attention to represents what is known as the $1.10 line—that is, the freight rate on a car of dry goods from Chicago to points designated on this line is $1.10 per hundred.

The second line is the $1.58 line. The rate of $1.58 per hundred on a car of dry goods at Bremen, N. Dak., is the same as it is at Seattle, and all other Pacific coast points. Under this application the railroads are asking a reduction on dry goods of 48 cents per hundred. They are asking the Interstate Commerce Commission to permit them to haul dry goods from Chicago to Seattle and other coast points for $1.10 per hun-

dred, the same that is paid at Detroit, Minn., and to all other points indicated on the $1.10 line, but the people living in that vast territory between the $1.10 line and the Pacific coast are not to be given any reduction regardless of the service performed by the railroads.

Starting at Detroit, Minn., on the Northern Pacific, the line runs down the map in a southeastern direction, through the States of Minnesota, Iowa, touching the eastern part of Nebraska, through Kansas and Arkansas, and on down until it reaches Greenville, Miss.

The second line west of Chicago, known as the $1.58 line, runs in practically the same direction. Beginning at Bremen, N. Dak., on the Northern Pacific, it runs in a southern direction through North and South Dakota, Nebraska, Kansas, Oklahoma, Arkansas, and across to Amesville, La.

The distance between Chicago and Seattle over the Northern Pacific is 2,314 miles. If this application is granted the people of Seattle will pay a freight rate of $440 for their car of dry goods, or on a car-mile basis they will pay only 19.4 cents, as compared with 71.7 cents per car-mile paid by the people of Detroit, Minn.

The Northern Pacific crosses the $1.58 line at Bremen, N. Dak., 838 miles from Chicago. The people of Bremen at the present time are paying $1.58 per hundred for their car of dry goods, or $632 per car—75.4 cents per car-mile.

At the present time the people of Seattle and all other coast cities are paying the same freight rate on dry goods as Bremen, N. Dak., $1.58 per hundred, but on a car-mile basis Seattle is paying only 27 cents per car-mile, as compared with 75 cents per car-mile paid by the people of Bremen, N. Dak.

The Great Northern crosses the $1.10 line at Rothsay, Minn., where the distance is 613 miles from Chicago, the same as it is from Detroit, Minn. The Great Northern crosses the $1.58 line at Steele, N. Dak., and all of the people of that railroad, westbound, are forced to meet the same discrimination in freight rates I have described on the Northern Pacific.

The Milwaukee crosses the $1.10 line at Mina, S. Dak., and the $1.58 line at Mahto, S. Dak. The people on the Milwaukee are suffering the same discriminations.

The Northwestern crosses the $1.10 line at Scranton, Iowa, 376 miles from Chicago, but the rate on a car of dry goods at this point happens to be $1.11 per hundred. The people of Scranton are paying $1.19 per car-mile, as compared with 19.4 cents paid by the people of Portland, if this application is granted.

The Union Pacific, which connects with the North Western at Omaha, Nebr., crosses the $1.58 line at Ogallala, Nebr., 820 miles from Chicago. The people of Ogallala are paying $632 for their car of dry goods at the present time, or 77 cents per car-mile, as compared with 27.8 cents per car-mile paid by the people of Portland.

These same violations, Mr. President, occur on the Rock Island at Jensen, Kans. The people of Jensen pay 72 cents per car-mile. The Rock Island crosses the $1.10 line at Willard, Kans., 601 miles from Chicago. The people of Willard pay a rate of 73 cents per car-mile.

The Santa Fe crosses the $1.10 line at Quenemo, Kans., 523 miles from Chicago. The people of Quenemo pay 84 cents per car-mile.

The Santa Fe crosses the $1.58 line at Mackville, Kans., 729 miles from Chicago. Here the rate is 74.9 cents per car-mile, but under the present rate only 25 cents per car-mile to San Francisco.

The Frisco Road crosses the $1.10 line at Wyandotte, Okla., 625 miles from Chicago. Here the rate is 70.5 cents per car-mile, while the rate to Los Angeles, if these applications are granted, is only 19 cents per car-mile.

The Frisco road crosses the $1.58 line at Beggs, Okla., 735 miles from Chicago. Here the rate on a car of dry goods is 86 cents per car-mile and only 27.4 cents to Los Angeles.

The Yazoo-Mississippi road crosses the $1.10 line at Greenville, Miss., 784 miles from Chicago. The rate on a car of dry goods to Greenville is 59 cents per car-mile.

The $1.58 line crosses the Southern Railroad at Amesville, La., 931 miles from Chicago. Here the rate on a car of dry goods is 68 cents per car-mile; but leaving Chicago on the Illinois Central and over its connecting lines, the railroads are willing to haul this car of dry goods through Amesville, La., and on to San Francisco for $1.10 per hundred, if this application is granted, while Los Angeles will only pay 13 cents per car-mile and San Francisco will pay only 14 cents per car-mile as compared with 68 cents per car-mile paid by the people of Amesville, La.

What I have described in the discrimination on dry goods, Mr. President, only tells the story of the discrimination of 46 other commodities on which the transcontinental railroads are asking for violations of the fourth section of the interstate commerce act, and it is a well-known fact, Mr. President, if these violations are permitted, they are only a beginning of the violations that will be asked for by the transcontinental railroads in the interest of the city of Chicago and Pacific coast points.

Mr. President, in this vast territory west of the $1.10 line is more than half of all the territory of the United States, and in all this vast territory, with the exception of the cities on the Pacific and Gulf coasts that have been favored with violations of the fourth section of the interstate commerce act, there is hardly a manufacturing institution that is worthy of being called a manufacturing institution, nor can there be any manufacturing institution as long as discriminations are permitted in freight rates or as long as there is even a danger of discrimination in freight rates.

Mr. President, the people living west of the $1.10 line on all of the transcontinental railroads are not asking for a cheaper freight rate through Senate bill 575 than the people of Los Angeles, San Francisco, Portland, and Seattle, and all other Pacific coast cities, but they are asking through this legislation that the Government shall not give the people of the coast cities a cheaper freight rate than the interior is forced to pay for a haul that in some cases is 300 per cent greater and over two great mountain passes, the Rocky and Coast Ranges, and on a car-mile basis is about one-third of what the people must pay in the interior. The people in the interior are asking for a square deal in freight rates, and they are asking this from their own Government, for a freight rate is a tax that all of the people must pay for the use of our railroads; and when that tax is authorized by the Government, as it is to-day on our railroads, then it should be a fair tax, a just tax, a tax without discrimination.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER (Mr. OVERMAN in the chair). Does the Senator from Idaho yield to the Senator from Montana?

Mr. GOODING. I yield.

Mr. WALSH. I want to ask the Senator if this discrimination is applicable to Colorado and the city of Denver as well?

Mr. GOODING. I understand that it is not altogether applicable to Denver. Denver will enjoy some advantage in some respects by these violations, but here is what will happen to Denver, here is what will happen to Omaha, here is what will happen to Kansas City: For the first time in many years Chicago will enjoy the same freight rates that all those cities have if this application shall be granted.

In other words, the freight from Chicago will be hauled free to Omaha and Kansas City, although their independent roads are not a part of the transcontinental railroads. Omaha will have a rate of $1.10, the same as Chicago. It has a lower rate at the present time to the Pacific Coast, and later I will furnish for the record the freight rate that Omaha is now paying to the Pacific coast showing the sacrifice that Omaha is making in putting Chicago on the same rate level in the markets of the Pacific coast.

Mr. President, in the hearings before the Interstate Commerce Committee on Senate bill 575, Mr. Thom, who represents the railroads in all matters of legislation that come before Congress, made a statement that clearly sets forth the attitude of the transcontinental railroads toward the interior territory of the West. But, first let me say, Mr. Thom is a most able representative of the railroads, worthy of his hire. And with it all I must say he is a most splendid gentleman and presents his case in a way that wins respect for the man, if not for the argument. I am told that Colonel Thom draws a salary of $50,000 a year, and, with the propaganda assistance given him by the railroads, earns millions of dollars for the railroads, for he has a record of 100 per cent efficiency in stopping railroad legislation regardless of how meritorious it may be.

A great many people of this country regard the interior territory of the West, the Northwest, and the Southwest as a barren waste. There was a time when there were those who opposed a part of this vast territory becoming a part of the Union, and I want to thank Mr. Thom, this able representative of the railroads, for making a statement before the Interstate Commerce Committee of the Senate in the hearings on Senate bill 575 that makes clear the attitude of the great bankers of New York City toward the West.

I say the great bankers of New York City, Mr. President, because the great bankers of Wall Street dominate the policy of the transcontinental railroads. I am satisfied if the men who operate our transcontinental railroads had their say,

there would be no discrimination in freight rates toward the interior and they would turn their attention toward the development of the interior.

And I am satisfied, Mr. President, that if the transcontinental railroads would adopt that policy they would soon have to double-track their lines in the West to take care of the increased traffic on their roads.

Ever since the passage of the Esch-Cummins Act there has not been a single piece of railroad legislation passed that he has opposed, with the exception of the joint resolution known as the Hoch-Smith resolution, and that was passed with the hope of giving the farmer some relief in freight rates, but we now understand that it will take years before the Interstate Commerce Commission can make the investigation authorized under the Hoch-Smith resolution. I can remember, however, when the horizontal increase in freight rates was made under the Esch-Cummins Act in 1920. It only took the Interstate Commerce Commission a few short weeks to authorize that increase of from 25 per cent to 40 per cent in freight rates on our railroads, which has already cost the American people billions of dollars in increased freight rates, so, while Mr. Thom was not able to defeat the Hoch-Smith resolution, the Interstate Commerce Commission, with the assistance of the railroads, will defeat the object of that resolution, for an increase of 5 per cent in freight rates is now being asked for by the transcontinental railroads.

Let me say that this statement made by Colonel Thom was read from a prepared statement that no doubt was passed on by the men who dictate the policy of our transcontinental railroads. This is what Mr. Thom has to say:

> Mr. THOM. Now, the only complaint, it seems, that can be made of the policy of the railroads is that they have not agreed with the intermountain country as to the prospects of developing that country for jobbing or manufacturing purposes. They have believed that they are not in a position to compete with the more favorable situation of the coast in respect to that matter.

And so, Mr. President, here is an admission on the part of the great transcontinental railroads, or I should say, the great bankers of Wall Street, that they do not agree with the intermountain country as to its prospects for developing that country for jobbing or manufacturing purposes; and they do not propose to let it develop, if they can help it, so that the people of the intermountain country can serve their own people with jobbing houses, or manufacture their own materials into the finished product.

Mr. President, I am thankful for this admission on the part of those who dominate and control the transcontinental railroads. And, Mr. President, when this great Government of ours, through the Interstate Commerce Commission, permits the transcontinental railroads to charge the people of the interior more for the shorter haul than for the longer haul to the Pacific coast points so that it is not possible for the people of the interior to establish jobbing houses with any safety, or to encourage capital to invest in the manufacturing of our raw materials in the interior into the finished product, then, this Government of ours, through the Interstate Commerce Commission, enters into a conspiracy with the bankers of Wall Street to deny the people of the interior the right to job for themselves, or to build manufacturing industries to manufacture their raw materials into the finished product, all of which the transcontinental railroads, through their representatives, plead guilty to.

And so, Mr. President, unless Senate bill 575 becomes a law under the present policy of our own Government the great interior territory of the West must always remain an agricultural and pastoral country, for no country can develop its industries where it is forced to meet a discrimination in freight rates, for history teaches us that all down through the ages that those countries that have always remained agricultural and pastoral are the poor countries of the world, for you can not have a great population or great wealth where there are only agricultural and pastoral pursuits, and so under the domination of Wall Street the great interior territory of the West must always remain agricultural and pastoral.

Mr. President, if the bankers of Wall Street are going to be permitted to dictate our governmental policy in transportation, then I say God pity America, for this country can not endure under the selfishness of the great banking institutions of America; and so we learn through Colonel Thom that there is no hope for the interior territory of the West. The only hope we have, Mr. President, lies in Senate bill 575 becoming a law; and let me say, Mr. President, that for this great Government of ours to permit any body of men, I care not who they may be, to retard the growth and development of any part of America is tyranny, tyranny as damnable as the tyranny forced on the Colonies by England for more than a hundred years before the Revolutionary War.

For more than a hundred years before the Revolutionary War England denied the Colonies the right to manufacture even a horseshoe nail without permission from the British Parliament. Through legislation, England stopped the Colonies from building steel mills and iron foundries, and denied the Colonies the right to ship their raw materials to any country other than England. The tea party in the Boston Harbor was but an incident that led up to the Revolutionary War.

It was the tyranny of England that denied the Colonies the right to manufacture their raw materials into the finished product or to trade with the world that brought on the Revolutionary War.

Mr. President, this Government might just as well pass legislation denying the people of the great interior the right to serve themselves through jobbing houses or to build manufacturing institutions to manufacture their raw materials into the finished product, as to permit the great transcontinental railroads to say, through the violation of the fourth section of the interstate commerce act, these people are not able to serve themselves or do for themselves what the rest of the people in America have been permitted to do.

Talk about tyranny! Never in the reign of the Czar of Russia was there anything more vicious than the tyranny forced upon the people of the interior of this country in the discrimination in freight rates by the transcontinental railroads, and all by the authority of this Government.

Mr. President, the people of the interior territory of the West feel this discrimination most keenly, for they know and understand the day is coming when their mines will be worked out and their timber resources will be exhausted, and if they are forced to continue being a one-crop country, such as they are to-day, the fertility of the soil will become exhausted, for you can only keep up the fertility of the soil by a rotation of crops, and unless you have a home market rotation of agricultural crops is not possible to any great extent.

Mr. President, the best interests of this Government demand that we stop the discrimination of freight rates toward the interior, so that capital will become interested in the development of the resources of that country, so that some day we may have great industrial cities in the West that will give the farmers a home market for their farm products; for, after all, the prosperity and greatness of this country rests in a large measure on the fertility of the soil; for if you will show me a community anywhere in America where for any length of time the soil has become exhausted and it is a struggle to keep the wolf from the door, I will show you a community where the citizenship, like the soil, has gone backward.

In the fifth century, when the Huns and vandals ravished the Roman Empire, the soil of Rome was only producing on an average of 4 bushels of wheat to the acre, and the average of all other farm products was in the same proportion. When the soil of Rome lost its virile force the manhood of that mighty empire, that for centuries had ruled the world, lost its virile force, and Rome went down to destruction.

Mr. President, nowhere in all the world is there a country so rich in natural resources as that country out in the great West—a land of sunshine, with rich soil, great forests, great mountains, and broad plans, great rivers—a country that is only waiting for a square deal in freight rates to build great industrial cities and to carry on and make this a bigger and better country all the way around.

Out in the great West, the Northwest, and the Southwest, including all the territory south and west of the $1.10 line, is produced 25 per cent of all the gold in the world; 40 per cent of all the silver in the world; 30 per cent of the lead in the world; 42 per cent of the copper in the world; 40 per cent of the zinc in the world; 43 per cent of the aluminum in the world; 60 per cent of the oil in the world; and out in that vast territory is most of the standing timber that is left in America to-day; and, outside of Russia, this country produces 28.5 per cent of all the wheat in the world, most of which is produced west of the $1.10 line.

Out in that vast country is produced most of the sheep and most of the cattle of America. It is also a mighty factor in the production of corn and cotton and all other farm products that are grown in America. Out in the great West, Mr. President, in that territory west of the $1.10 line more hydroelectric power can be developed than in all the rest of the United States several times over.

Out where the West begins, Mr. President, are great coal deposits, great iron deposits, and great mineral deposits of every kind known to this civilization. Out there, Mr. Presi-

dent, we have great oil fields, great gas fields that are as yet untouched; and, in the language of the West, we have made only a beginning in the development of that mighty empire.

Mr. President, there are no better citizens in all the world than those who live out in the great West; for the citizenship of the West is made up from some of the best blood of every State in the Union, and all the West is asking is just a square deal in freight rates—that is all and nothing more. We do not want any special privileges. We would not have the railroads give us a cheaper freight rate than is given to other parts of the country for the same service, for we know and understand that if we have cheaper freight rates some other part of the country must pay for it. All we ask in freight rates is the same as this Government has given to the people east of Chicago and on the Pacific coast; that is all, and nothing more—and we will accept nothing less—and that we are going to have regardless of how long or how hard the fight must be. Nothing will be accepted by the West but a square deal, the same rights, the same privileges, and the same opportunities that have been given to the people east of Chicago—that is all we ask—that and nothing more.

Mr. President, at this point I wish to read the poem entitled "Out Where the West Begins." This is a poem that every westerner is proud of.

OUT WHERE THE WEST BEGINS

Out where the hand clasp's a little stronger,
Out where the smile dwells a little longer,
That's where the West begins.
Out where the sun shines a little brighter,
Where the snows that fall are a trifle whiter,
And the bonds of home are a wee bit tighter,
That's where the West begins.

Out where the skies are a trifle bluer,
Where friendship ties are a little truer,
That's where the West begins.
Out where a fresher breeze is blowing,
Where there's laughter in every streamlet flowing,
Where there's more of reaping and less of sowing,
That's where the West begins.

Out where the world is still in the making,
Where fewer hearts in despair are breaking,
That's where the West begins.
Where there's more of singing and less of sighing,
Where there's more of giving and less of buying,
And a man makes friends without half trying,
That's where the West begins.

Mr. President, the opposition of the railroads to Senate bill 575 is based on two propositions: First, the transcontinental railroads say that transportation through the Panama Canal is so great that it is seriously impairing the earnings of their roads, and that they are forced to haul empty cars westbound to take care of the eastbound traffic.

I shall have no trouble in showing that the arguments of the transcontinental railroads are wholly without merit, for the development of water transportation in America has brought about a great development of that part of the country where water transportation has been developed and permitted to exist. That was true of the Panama Canal. It is true of the Great Lakes and of the rivers east of Chicago.

Mr. President, the transcontinental railroads say they are only asking for 50 per cent of the intercoastal freight through the Panama Canal. They believe if the violations they are asking for are granted that it will give them 50 per cent of the intercoastal freight through the Panama Canal westbound. All the way through the transcontinental railroads have contended it was the westbound intercoastal freight that was working the great injury to the railroads.

The records of the Panama Canal show that for the years of 1923, 1924, and 1925 there has been a gradual falling off of intercoastal freight through the Panama Canal, both westbound and eastbound. In 1923 the intercoastal tonnage through the Panama Canal from the Atlantic to the Pacific was 2,978,529 tons; for 1924, 2,408,423 tons; and for 1925, 2,468,262 tons.

This shows a loss for 1925 over 1923 in intercoastal freight westbound through the Panama Canal of 510,303 tons. The intercoastal business from the Pacific to the Atlantic through the Panama Canal for 1923 was 10,059,152 tons; for 1924 8,944,925 tons; and for 1925, 6,059,696 tons. This shows a loss in 1925 over 1923 of intercoastal freight eastbound through the Panama Canal of 3,067,456 tons.

Most of this loss is accounted for in the falling off in the transportation of oil. Oil is shipped in tank ships and the railroads can not handle it anyway. We can not claim anything for the loss through the Panama Canal eastbound on that score, nor do the railroads claim that they are entitled to any part of this particular kind of traffic. I desire to direct attention to the alleged falling off in transportation westbound through the Panama Canal, because that was the contention on the part of the railroad all the way through in the hearings on Senate bill 2327 in the last session and on Senate bill 575, the pending measure.

If the transcontinental railroads can take 50 per cent of the business through the Panama Canal westbound, they will take 50 per cent of the business eastbound, and that will put out of commission the ships that are carrying intercoastal freight through the Panama Canal. Of course this is the purpose of these violations; it is the same fight the railroads have been making ever since the Panama Canal was built—and that is to destroy its usefulness as far as intercoastal freight passing through the canal, both eastbound and westbound, is concerned. It is the old, old fight that the railroads have waged against water transportation for more than half a century.

The transcontinental railroads need have no fear of being injured by the Panama Canal. It is the people who need be alarmed, Mr. President, for fear the transcontinental railroads may destroy the usefulness of the Panama Canal as far as the intercoastal transportation is concerned.

Mr. President, to prove the statement I have made that the building of the Panama Canal has been beneficial to our transcontinental railroads, I offer a table for the RECORD showing the tonnage hauled by the six transcontinental railroads. Beginning with the year of 1914, the year the Panama Canal was opened, up to and including 1924, the table shows the tonnage hauled by the Great Northern, the Northern Pacific, the Chicago-Milwaukee, the Union Pacific, the Southern Pacific, and the Santa Fe.

I regret exceedingly that the figures for the number of tons hauled by the transcontinental railroads are not complete for the calendar year of 1925, for 1925 is the greatest year in the history of the American railroads. A greater tonnage has been transported than ever before, and the railroads have a greater net income than ever before. I ask permission to insert the table in the RECORD without reading.

The PRESIDING OFFICER. Without objection permission is granted.

The table referred to is as follows:

Operating results, selected western roads—1914–1924

[Interstate Commerce Commission, Bureau of Statistics]

Item and year	Great Northern Railroad	Northern Pacific Railroad	Chicago, Milwaukee & St. Paul	Union Pacific Railroad	Southern Pacific Railroad	Santa Fe Railroad
FREIGHT REVENUE						
June 30, 1914	55,025,016	48,058,812	65,266,420	35,826,351	55,182,071	61,089,211
June 30, 1915	47,147,314	43,833,637	63,953,799	35,726,726	51,029,795	64,764,400
Dec. 31, 1916	61,053,293	59,543,090	79,648,513	51,277,212	73,710,072	85,605,012
Dec. 31, 1917	64,300,666	65,258,995	79,957,271	55,839,584	87,034,922	98,801,488
Dec. 31, 1918	76,937,445	78,534,344	96,623,658	72,679,802	101,619,149	113,798,081
Dec. 31, 1919	77,351,472	72,934,723	106,288,453	80,761,292	112,710,457	124,211,105
Dec. 31, 1920	89,760,845	81,090,390	117,183,815	93,974,374	125,814,467	142,331,973
Dec. 31, 1921	74,700,241	69,246,505	104,894,848	84,377,264	122,046,545	129,276,475
Dec. 31, 1922	78,065,563	71,725,066	116,005,731	80,686,246	120,839,278	132,964,660
Dec. 31, 1923	93,672,147	77,610,570	127,953,106	88,728,990	136,069,362	139,655,477
Dec. 31, 1924	86,144,671	73,422,540	120,070,603	83,391,210	130,253,034	134,628,629

Mr. GOODING. Take the Great Northern, which is one of the six transcontinental railroads I shall discuss:

In 1914, the year the Panama Canal was opened, the Great Northern had a tonnage—using only the first figure—of 55,000,000 tons.

In 1924, the tonnage of the Great Northern had increased to 86,000,000 tons.

The Northern Pacific in 1914 had a tonnage of 48,000,000 tons, and in 1924, 73,000,000 tons.

In 1914 the Chicago-Milwaukee had a tonnage of 65,000,000 tons, and in 1924, 120,000,000 tons.

In 1914 the Southern Pacific had a tonnage of 55,000,000 tons, and in 1924, 130,000,000 tons.

In 1914 the Santa Fe had a tonnage of 61,000,000 tons, and in 1924 their tonnage had the enormous figure of 134,000,000 tons.

Mr. President, the total tonnage of the six transcontinental railroads in 1914, the year the Panama Canal was opened, was 320,447,881 tons, and in 1924 this tonnage had increased on the transcontinental railroads to 627,910,859 tons, or an increase since 1914 of 307,462,978 tons—almost 100 per cent of an increase.

The increase on the transcontinental railroads is vastly greater since 1914 than the average increase on the rest of the railroads in the United States during that time. Yet, if the railroads had their way, they would destroy the coastwise business through the Panama Canal.

If the transcontinental railroads took 50 per cent of the coastwise business from the ships, Mr. President, they would, as I have already shown, only add a little more than 1,000,000 tons to the enormous traffic on their roads. The traffic on the transcontinental railroads for 1924 was 627,910,859 tons.

A little more than 1,000,000 tons out of such a vast traffic is so small one would wonder that great railroad men would say that the Panama Canal was injuring the transcontinental railroads. You would expect more from the great men who are operating our railroads than a statement of this kind; for it is not fair, it is not just, it is not honest; yet they have made some people believe that this paltry 1,000,000 tons for which they are asking will throw their roads into bankruptcy.

And they have alarmed the people of the interior by making them believe that unless they can take this traffic from the Panama Canal it will be necessary to increase freight rates in the interior to make up their great losses. The facts are if these violations are granted it will practically destroy coastwise business through the Panama Canal. It is then the railroads will make application for an increase in freight rates on one pretext or another, which has been their method of procedure ever since the Interstate Commerce Commission was created.

Mr. President, the transcontinental railroads are as unfair in their complaint about the empty-car movement as they are about this measly little coastwise tonnage that is now passing through the Panama Canal westbound:

Freight service car-miles, including mixed and special train car-miles

Name of road, region, or district	Total car-miles	Empty car-miles	Ratio empty to total
12 MONTHS ENDED DEC. 31, 1924			
Atchison, Topeka & Santa Fe Ry. Co.	904,811,000	318,550,000	35.2
Chicago, Milwaukee & St. Paul Ry. Co.	777,229,000	265,832,000	34.2
Great Northern Ry. Co.	500,140,000	169,506,000	33.9
Northern Pacific Ry. Co.	422,417,000	126,824,000	30.0
Union Pacific R. R. Co.	581,188,000	178,353,000	30.7
Northwestern region	3,140,060,000	1,057,022,000	33.7
Central western region	4,392,869,000	1,514,689,000	34.5
Southwestern region	2,194,497,000	749,604,000	34.2
Western district	9,727,426,000	3,321,315,000	34.1
United States	24,448,926,000	8,535,281,000	34.9
10 MONTHS ENDED OCT. 31, 1925			
Atchison, Topeka & Santa Fe Ry. Co.	784,008,000	272,298,000	34.7
Chicago, Milwaukee & St. Paul Ry. Co.	699,209,000	241,778,000	34.6
Great Northern Ry. Co.	442,572,000	155,046,000	35.0
Northern Pacific Ry. Co.	377,008,000	112,733,000	29.9
Union Pacific R. R. Co.	509,628,000	157,336,000	30.9
Northwestern region	2,757,203,000	936,194,000	34.0
Central western region	3,806,810,000	1,310,232,000	34.4
Southwestern region	1,993,361,000	709,579,000	35.6
Western district	8,557,374,000	2,956,005,000	34.5
United States	21,683,092,000	7,648,443,000	35.3

Relation of empty car-miles to total car-miles, selected roads, western district and United States, years 1911, 1912, and 1916

	Total car-miles	Empty car-miles	Ratio empty to total
YEAR ENDED JUNE 30, 1911			
Great Northern	363,757,168	95,819,361	26.34
Northern Pacific	336,113,211	72,502,109	21.57
Chicago, Milwaukee & St. Paul	497,317,288	141,892,821	28.53
Union Pacific	298,557,450	77,583,247	25.99
Atchison, Topeka & Santa Fe	531,926,674	145,015,732	27.26
Western district	6,567,637,369	1,892,299,977	28.81
United States	18,384,875,355	5,718,739,249	31.11
YEAR ENDED JUNE 30, 1912			
Great Northern	393,365,534	109,498,857	27.84
Northern Pacific	343,729,298	77,140,586	22.44
Chicago, Milwaukee & St. Paul	471,183,368	126,195,685	26.78
Union Pacific	288,084,332	73,120,881	25.38
Atchison, Topeka & Santa Fe	524,433,762	139,558,181	26.61
Western district	6,579,031,624	1,869,347,738	28.41
United States	18,546,304,157	5,655,788,917	30.50
YEAR ENDED JUNE 30, 1916			
Great Northern	487,365,824	151,375,906	31.06
Northern Pacific	461,848,243	130,585,797	28.27
Chicago, Milwaukee & St. Paul	773,139,434	221,583,322	28.66
Union Pacific	384,973,039	100,855,724	26.21
Atchison, Topeka & Santa Fe	606,047,899	163,589,959	26.99
Western district	7,967,710,237	2,316,708,644	29.08
United States	21,792,850,508	6,776,878,621	31.10

I offer for the RECORD, Mr. President, a table showing the total car movement, both loaded and empty, on our transcontinental railroads, and ask that it be printed at this point in my remarks. This table shows that the empty-car movement on our transcontinental railroads is less than the empty-car movement in any other part of the United States. This table shows that in 1911 in all of the car-miles hauled by the western railroads that 28.81 per cent was empty-car movement, while for the entire United States it was 31.11 per cent. In 1912 on the western roads there was 28.41 per cent empty-car movement, while for the United States for that year 30.5 per cent of all the cars moved were empty cars.

For 1916, 29.8 per cent of the total car-miles hauled by the railroads were empty cars, while for the United States the empty-car movement equaled 31.1 per cent. For the year ending December 31, 1924, the empty-car movement on the western roads was 34.1 per cent, while on all of the railroads in the United States the average was 34.9 per cent. For the 10 months ending October 31, 1925, the empty-car movement on the western roads was 34.5 per cent and in the United States as a whole 35.3 per cent. So, Mr. President, the empty-car movement in the United States as a whole, and in every part of the country, was greater than it was on the western roads, and this table shows that that has been true now for many years.

So, Mr. President, the argument of the transcontinental railroads that they must take from the Panama Canal one-half of its coastwise business, westbound, so they will not have to haul empty cars westbound for the eastbound traffic, is far from the truth and is on a par with the rest of the argument that the transcontinental railroads are using to defeat Senate bill 575.

The most interesting statement I have to offer as far as the transcontinental railroads are concerned is their earnings and their dividends beginning with the year of 1916 up to and including 1924. For the year of 1916 the Northern Pacific earned $17,360,000 and paid a dividend of 7 per cent. They paid a dividend of 7 per cent for 1917, 1918, 1919, 1920, and 1921. In 1922 the Northern Pacific earned $12,400,000 and paid a dividend of 5 per cent, and in 1923 and 1924 they showed the same earnings and paid the same dividend.

In 1916 there was a surplus in the treasury of the Northern Pacific of $98,000,000, and in 1924 there was a surplus in the treasury of the Northern Pacific of $176,000,000.

The Great Northern paid a dividend of 7 per cent in 1916, 1917, 1918, 1919, 1920, and 1921, and in 1922 the Great Northern paid a dividend of 5¾ per cent, and in 1923 and 1924 a dividend of 5 per cent. The surplus in the treasury of the Great Northern in 1916 was $106,000,000, and in 1924 $132,000,000.

The Union Pacific for 1916, up to and including 1924, paid a dividend of 10 per cent on its common stock and 4 per cent on its preferred stock. This road had in its treasury in 1916 $116,000,000 and in 1924 $173,000,000.

The Southern Pacific declared a regular dividend of 6 per cent for every year since 1916 up to and including 1924. In 1916 the Southern Pacific had $117,000,000 surplus in its treasury. In 1924 they had, in round numbers, $210,000,000 surplus in their treasury.

The Santa Fe Railroad, beginning with 1916, paid a dividend of 6 per cent on its common stock and 5 per cent on its preferred stock. In 1917 the Santa Fe Railroad paid 7½ per cent on its common stock and 5 per cent on its preferred stock. In 1918, 1919, 1920, 1921, 1922, and 1923 the Santa Fe paid 6 per cent on its common stock and for those years 5 per cent on its preferred stock. In 1924 the Santa Fe paid a dividend of 6¼ per cent on its common stock and 5 per cent on its preferred stock. In 1916 the Santa Fe had a surplus in its treasury of $106,000,000 and in 1924 a surplus of $273,000,000.

I offer these tables for the RECORD, Mr. President.

The PRESIDING OFFICER. Without objection, they will be received and printed in the RECORD as requested.

The tables referred to are as follows:

Dividends declared and corporate surplus, selected western roads, 1910–1916

[Dividends declared from income and/or surplus and rate]

GREAT NORTHERN RY. CO.

Year	Amount of dividends (preferred)	Rate of dividends (preferred)	Total corporate surplus [1]
		Per cent	
June 30, 1910	$14,696,475	7	$63,498,110
June 30, 1911	14,698,416	7	66,342,986
June 30, 1912	14,698,651	7	75,842,325
June 30, 1913	14,698,659	7	85,276,919
June 30, 1914	15,063,048	7	89,696,365
June 30, 1915	16,796,857	7	92,045,568
June 30, 1916	17,456,390	7	98,373,902

[1] Appropriated and unappropriated.

Dividends declared and corporate surplus, selected western roads, 1910–1916—Continued

NORTHERN PACIFIC RAILWAY CO.

[Dividends declared from income and/or surplus and rate]

Year	Amount of dividends (common)	Rate of dividends (common)	Total corporate surplus [1]
		Per cent	
June 30, 1910	$17,359,685	7	$76,562,302
June 30, 1911	17,359,580	7	83,471,379
June 30, 1912	17,357,900	7	85,802,955
June 30, 1913	17,356,220	7	90,101,548
June 30, 1914	17,356,220	7	91,059,088
June 30, 1915	17,356,220	7	83,545,820
June 30, 1916	17,360,000	7	91,252,492

[1] Appropriated and unappropriated.

[Dividend declared from income and/or surplus and rate]

UNION PACIFIC RAILROAD CO.

Year	Amount of dividends		Rate of dividends		Total corporate surplus [1]
	Common	Preferred	Common	Preferred	
			Per cent	*Per cent*	
June 30, 1910	$21,703,866	$3,981,760	10	4	$76,875,312
June 30, 1911	21,659,572	3,981,744	10	4	145,541,934
June 30, 1912	21,664,739	3,981,744	10	4	151,416,774
June 30, 1913	21,663,370	3,981,740	10	4	150,917,414
June 30, 1914	[2] 93,801,150	3,981,740	42.3	4	86,487,800
June 30, 1915	17,783,328	3,981,740	8	4	93,687,131
June 30, 1916	17,783,328	3,981,740	8	4	108,521,942

[1] Appropriated and unappropriated.
[2] Includes $74,020,372 charged to profit and loss.

By a decree of the Supreme Court of the United States the Union Pacific was compelled to dispose of its Southern Pacific stock. Instead of distributing the cash proceeds of the sale of the Southern Pacific stock among the stockholders the Union Pacific declared an extra dividend on common stock amounting to $74,020,372.20 to be paid in Baltimore & Ohio stock owned by the Union Pacific (p. 23, 1914 report of Union Pacific to stockholders).

Dividends declared and corporate surplus, selected western roads, 1916–1919

[Dividends declared from income and/or surplus and rate]

Year	Northern Pacific Ry. Co	Rate	Great Northern Ry. Co.	Rate	Union Pacific R. R. Co.	Rate
		Per cent		*Per cent*		*Per cent*
1916	$17,360,000	7	$17,462,505	[1] 7	$22,229,160	10
					3,981,740	[1] 4
1917	17,360,000	7	17,462,959	[1] 7	22,229,160	10
					3,981,740	[1] 4
1918	17,360,000	7	17,462,842	[1] 7	22,229,160	10
					3,981,740	[1] 4
1919	17,360,000	7	17,462,890	[1] 7	22,229,160	10
					3,981,740	[1] 4
1920	17,360,000	7	17,462,916	[1] 7	22,229,160	10
					3,981,740	[1] 4
1921	17,360,000	7	17,462,974	[1] 7	22,229,160	10
					3,981,740	[1] 4
1922	12,400,000	5	13,097,264	[1] 5¼	22,229,160	10
					3,981,740	[1] 4
1923	12,400,000	5	12,473,605	[1] 5	22,229,160	10
					3,981,740	[1] 4
1924	12,400,000	5	12,473,617	[1] 5	22,229,160	10
					3,981,740	[1] 4
Total Corporate Surplus (appropriated and unappropriated):						
1916	98,603,199	------	108,511,552	------	116,402,413	------
1917	110,727,127	------	116,968,997	------	128,209,583	------
1918	114,873,854	------	114,936,578	------	131,370,737	------
1919	121,508,350	------	119,851,063	------	138,095,911	------
1920	173,803,700	------	122,749,921	------	149,100,556	------
1921	183,130,520	------	129,371,798	------	159,162,528	------
1922	175,954,259	------	126,437,101	------	154,024,797	------
1923	173,308,043	------	126,347,164	------	164,190,331	------
1924	176,805,159	------	132,134,125	------	173,703,995	------

[1] Preferred.

Dividends declared and corporate surplus, selected western roads, 1910–1916

[Dividends declared from income and/or surplus and rate]

ATCHISON, TOPEKA & SANTA FE RAILWAY CO.

Year	Amount of dividends		Rate of dividends		Total corporate surplus [1]
	Common	Preferred	Common	Preferred	
			Per cent	*Per cent*	
June 30, 1910	$9,648,030	$5,708,690	6	5	$34,528,903
June 30, 1911	9,932,460	5,708,690	6	5	40,277,946
June 30, 1912	10,168,185	5,708,690	6	5	43,878,309
June 30, 1913	10,398,780	5,708,690	6	5	49,462,727
June 30, 1914	11,691,750	5,708,690	6	5	52,246,252
June 30, 1915	11,841,330	5,708,687	6	5	58,838,518
June 30, 1916	12,482,280	6,208,685	6	5	93,241,611

[1] Appropriated and unappropriated.

Dividends declared and corporate surplus, selected western roads, 1916–1924

[Dividends declared from income and/or surplus and rate]

ATCHISON, TOPEKA & SANTA FE RAILWAY CO.

Year	Amount of dividends		Rate of dividend		Total corporate surplus [1]
	Common	Preferred	Common	Preferred	
			Per cent	*Per cent*	
Dec. 31, 1916	$12,813,750	$6,208,685	6	5	$106,169,451
Dec. 31, 1917	16,486,402	6,208,685	7½	5	121,164,209
Dec. 31, 1918	13,289,595	6,208,685	6	5	129,853,064
Dec. 31, 1919	13,351,695	6,208,685	6	5	153,343,170
Dec. 31, 1920	13,441,110	6,208,685	6	5	172,552,334
Dec. 31, 1921	13,518,420	6,208,685	6	5	195,089,633
Dec. 31, 1922	13,605,660	6,208,685	6	5	230,384,170
Dec. 31, 1923	13,909,245	6,208,685	6	5	252,277,769
Dec. 31, 1924	14,525,594	6,208,640	6¼	5	273,159,126

[1] Appropriated and unappropriated.

Dividends declared and corporate surplus, selected western roads, 1910–1916

[Dividends declared from income and/or surplus and rate]

SOUTHERN PACIFIC CO.

Year	Amount of dividends (common)	Rate of dividends (common)	Total corporate surplus [1]
		Per cent	
June 30, 1910	$17,237,893	6	$57,126,765
June 30, 1911	16,360,342	6	65,319,649
June 30, 1912	16,360,344	6	68,448,042
June 30, 1913	16,360,344	6	77,556,846
June 30, 1914	16,360,344	6	107,355,068
June 30, 1915	[2] 16,360,464	6	112,951,054
June 30, 1916	[2] 16,360,632	6	117,251,268

[1] Appropriated and unappropriated.
[2] Represents dividends charged to profit and loss.

Dividends declared and corporate surplus, selected western roads, 1916–1924

[Dividends declared from income and/or surplus and rate]

SOUTHERN PACIFIC CO.

Year	Amount of dividends (common)	Rate of dividends (common)	Total corporate surplus [1]
		Per cent	
Dec. 31, 1916	$16,363,018	6	$117,628,599
Dec. 31, 1917	16,369,400	6	140,593,114
Dec. 31, 1918	16,404,055	6	148,048,145
Dec. 31, 1919	17,478,125	6	152,120,678
Dec. 31, 1920	18,209,281	6	158,156,833
Dec. 31, 1921	20,639,196	6	192,471,229
Dec. 31, 1922	20,662,854	6	197,898,923
Dec. 31, 1923	20,662,854	6	205,452,724
Dec. 31, 1924	20,942,854	6	210,382,595

[1] Appropriated and unappropriated.

Mr. GOODING. Mr. President, if the transcontinental railroads had paid out the accumulated surplus in their treasury since 1916 all of them would have exceeded the 6 per cent provided for in the Esch-Cummins law. And some of them would more than double that amount in dividends.

The transcontinental railroads since 1920 have seen the most prosperous years in their existence; and yet these railroads are trying to destroy our coastwise transportation through the Panama Canal. And at the same time with all of their prosperity they are demanding an increase of 5 per cent in freight rates. The earnings of these transcontinental railroads, which I have placed in the RECORD, tells only a part of the story of their income, for they have vast interests in banking institutions in the country and in other railroads that are not accounted for in this statement I have made of their earnings.

Yet the same railroads, despite all this prosperity, have filed an application with the Interstate Commerce Commission for an increase of 5 per cent. Not satisfied with their enormous earnings and the accumulations of surplus, not satisfied with the greatly increased tonnage, amounting to almost 100 per cent, they want an increase in freight rates, and seek to destroy the usefulness of the Panama Canal. Talk about selfishness and greed, unreasonableness and unfairness to a great section of the country! If they would allow the West to develop as it should develop, they would have to double-track their lines in order to carry the products of that great section to the East and to the West.

I have here some figures with reference to the Oregon Short Line, a division of the Union Pacific. I especially want to call the attention of Senators to that railroad, because I think beyond a doubt it is the richest railroad in the United States. There may be others that have earned as great dividends; I have not investigated as to that; but I have paid some attention to the Oregon Short Line, because it was my good fortune to go to Idaho just at the end of my boyhood days, before the Oregon Short Line was built across the Territory of Idaho, and I have known something about this great railroad since the day of its construction. The officers of the Oregon Short Line have always been efficient; they are splendid gentlemen, and I am sure if they had their way about it there would be no discrimination in freight rates against the people of that great State; but, with Wall Street dominating the policy of the Union Pacific and the Oregon Short Line, what chance is there for the officials of the Oregon Short Line, if they wanted to do so, to give Idaho a chance?

Most of the mileage of the Oregon Short Line is in Idaho. It passes through the great valley of the Snake—a railroad that hauls more tons per traction power than any other railroad in the United States. There, in that State, freight rates are higher than they are in any other State in the Union. It is always the peak of the freight rates for Idaho, regardless of whether the freight is going east, west, north, or south. It is always, everywhere it goes and every place, the peak of the freight rates for Idaho.

The capital of Idaho is nearer to tidewater at Portland than Columbus, Ohio, is to tidewater at New York; yet through the policy of the transcontinental railroads and Wall Street all the freight in Idaho is forced eastbound over a long line of railroad manned by the most expensive labor in the world, and where freight rates of necessity are high. Why, the freight in Idaho on wheat westbound is 20 per cent higher than it is on the Northern Pacific.

I do not think there is a greater State in all the Union than Idaho. In that State cyclones and blizzards are unknown, and owing to our wonderful climate and our sunshine, the span of life is longer than it is in any other State in the Union. If it only had an opportunity, with its rich soil and its wonderful resources, it would be a great industrial State, and we would have a city of millions, and Portland would be a great city. It is a good city as it is, but it is only a village compared with what it ought to be; but you can not build a great Portland unless you have a great interior back of it.

Do you think the people of New York care how big the interior back of it is? They want a great interior, because it is only in that way that New York can be a great city, and they are a great city, because there are no violations of the fourth section between Chicago and New York. Therefore they can have an interior; but I will say to the Senator from Oregon that Portland never can have a great interior as long as it has discrimination of freight rates.

It is the jobbing and great timber interests on the Pacific coast that are flooding the Senators of the West with telegrams in favor of these violations. Your manufacturers realize this, and the good people of Portland and Seattle understand that you can not build great cities on the Pacific coast without a great interior.

Mr. KING. Mr. President, will the Senator suffer an interruption

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Utah?

Mr. GOODING. I yield.

Mr. KING. I did not quite understand the statement of the Senator with respect to propaganda or efforts on the part of the timber interests of the Northwest to influence legislation.

Mr. GOODING. I think I will leave that to the Senator from Montana [Mr. WHEELER], who has those letters to place in the RECORD.

Mr. KING. What I wanted to inquire was whether there had been efforts by those timber interests——

Mr. GOODING. I want to say that the letter that will be placed in the RECORD was found during an investigation on a resolution that I offered, so that it is authentic; and that letter will be furnished for the RECORD in due time.

Mr. KING. I just wanted to understand it; and I do not question it, because, may I say to the Senator, there is much evidence before the Federal Trade Commission which shows a conspiracy upon the part of various lumber and timber interests in the Northwest as well as in other parts of the United States to force the prices of lumber to extortionate levels; and they did succeed in forcing certain kinds of lumber—and they are merely typical of others—from $13 to $17 a thousand to $56 and $58 a thousand. Only recently a gentleman who had been active in securing these organizations and combinations in restraint of trade, in violation of the Sherman law, told me personally that he was going to the Pacific coast to effect a stronger organization of the lumber interests there—stronger in the sense that they wanted to rob and exploit the people more than they are doing now.

Mr. GOODING. Oh, yes. I think it is generally known that every year the timber interests meet here in Washington, and that around a table they agree on prices.

Mr. KING. May I say to the Senator, if he will suffer another interruption, that I read with more or less care the report of the Federal Trade Commission against one of these conspiracies in restraint of trade; and the Federal Trade Commission, when its report was submitted to the Department of Justice, was successful in having an indictment or a complaint brought against the conspirators in Kansas. It was transferred to St. Louis and was held in abeyance for a year or two and a short time ago was dismissed by the Department of Justice; and yet it was a case that merited not only a dissolution of the corporation but criminal prosecutions for violation of the punitive provisions of the Sherman antitrust law.

Mr. GOODING. Mr. President, I now want to read into the RECORD the dividends earned by the Oregon Short Line.

On June 30, 1900, the capital stock of the Oregon Short Line was $27,460,000. That year it earned a stock dividend of 6.74 per cent, but paid no dividends.

In 1901 it earned 9.46 per cent.
In 1902 it earned 12.56 per cent.
In 1903 it earned 13.67 per cent.
In 1904 it earned 8.19 per cent.
In 1905 it earned 12.49 per cent.

For the years I have mentioned, however, the Oregon Short Line paid no dividends.

In 1906 the Oregon Short Line earned 24.35 per cent and paid a dividend of 50 per cent on its capital stock.

In 1907 the Oregon Short Line earned 40.62 per cent on its capital stock and paid a dividend of 30 per cent.

In 1908 the Oregon Short Line earned a dividend of 141.75 per cent on its capital stock, and paid 110 per cent dividends.

In 1909 the Oregon Short Line earned 52.72 per cent on its capital stock, and paid a dividend of 25 per cent.

In 1910 the Oregon Short Line earned a dividend of 71.5 per cent on its capital stock, and paid a dividend of 50 per cent.

But the banner year, the real year for the Oregon Short Line that stands out of all these years of dividends, was 1911. In 1911 the Oregon Short Line declared a stock dividend, and increased its capital stock from $27,350,700 to $100,000,000. That year it earned 13.60 per cent on its capital stock of $100,000,000, and for the same year paid a cash dividend on its increased capital stock of $100,000,000 of 68.68 per cent, of which $72,649,300 was watered stock. In other words, the Oregon Short Line that year paid a dividend of $68,680,000 on a capital stock, before it was increased, of $27,350,700. It just watered its stock $72,649,300.

I call those good dividends for any road. It is not strange, after all, that we paid the peak of the freight rates out there in Idaho, and I want to tell the Senate that we have tried to get relief from the Interstate Commerce Commission, but we have not been able to do so. There was a horizontal increase in freight rates from 25 to 40 per cent which almost wrecked Idaho, and when a good citizen of my State was telling the Interstate Commerce Commission what a hard time the farmers were having to make a living on the farms, and how hard it was to get along, and that freight rates should be de-

creased, they said, "Why do the people not leave the farms?" That is the sympathy Idaho gets when it asks for a reduction of freight rates.

On another occasion when the story of the hardships of the wheat growers was told, one of the commissioners looked down off the bench and said:

Why do they not grow something besides wheat?

That is the sympathy we got. There is a lot of country in the United States, and particularly in my State, where the people can not grow anything but wheat. The farmers were so poor, after the crash came in 1920, that in 1921, 1922, and 1923, that they could not leave the farms. They had to grow wheat to live.

In 1912 the Oregon Short Line paid a dividend of 10 per cent on its capital stock of $100,000,000. In 1913 they paid a dividend of 10 per cent. In 1914 they paid 10 per cent. In 1915 they paid 6 per cent. In 1916 they paid 8 per cent. In 1917 they paid 9 per cent. In 1918 they paid 7 per cent. In 1919 they paid 8 per cent. In 1920 they paid 8 per cent. For each of the years of 1921, 1922, and 1923 the Oregon Short Line paid a dividend of 4 per cent.

In 1924 the Oregon Short Line had a surplus in its treasury of $66,659,283, an exceedingly large amount for railroads that only operate a little more than 1,000 miles of main line. So, Mr. President, we may expect the Oregon Short Line to pay another large dividend in the near future. The money is there to pay it whenever they want to. Possibly if they can get some legislation through so they will not have to pay anything under the recapture clause that dividend will be paid very soon.

Besides these enormous dividends paid by the Oregon Short Line, they have paid out of earnings of the road millions of dollars in the building of branch lines, and in double tracking their road, until to-day the Oregon Short Line ranks as one of the best-equipped railroads in the world. Yet the Oregon Short Line, like the other western railroads, is asking for an increase in freight rates of 5 per cent.

Mr. President, while the railroads have been fighting for a monopoly of transportation and have succeeded in securing that monopoly in the East and the West, with the assistance of our own Government, they have not kept pace with the growth and development of this country.

I offer for the RECORD a table showing the increased tonnage on our railroads from 1890 up to and including 1925, a period of 35 years. This table shows that in 1890 all of our railroads in the United States hauled 76,207,047,000 ton-miles of freight. In 1925 the ton-miles on our railroads had increased to 413,537,565 ton-miles. From 1913 up to and including 1925 the ton-miles hauled by our railroads had increased to 413,000,000,000 tons of freight, in round numbers, an increase in the last 12 years of 37 per cent. This table shows that in 35 years the traffic on our railroads in this country has increased 443 per cent.

I ask that this table be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Tons originated and ton-miles, Classes I, II, and III steam roads by years, 1890 to 1925, inclusive

Year ended June 30:	Ton-miles
1890	76,207,047,000
1891	81,073,784,000
1892	88,241,050,000
1893	93,588,112,000
1894	80,335,105,000
1895	85,227,516,000
1896	95,328,360,000
1897	95,139,022,000
1898	114,077,576,000
1899	123,667,257,000
Total	932,884,829,000
1900	141,596,551,000
1901	147,077,136,000
1902	157,289,370,000
1903	173,221,279,000
1904	174,522,090,000
1905	186,463,110,000
1906	215,877,551,000
1907	236,601,390,000
1908	218,381,555,000
1909	218,802,987,000
Total	1,869,833,019,000
1910	255,016,910,000
1911	253,783,702,000
1912	264,080,745,000
1913	301,730,291,000
1914	288,637,042,000
1915	277,134,816,000
1916	366,173,174,000
1917	398,263,062,000
1918	408,778,061,000
1919	367,161,871,000
Total	3,180,759,174,000
1920	413,698,749,000
1921	309,533,365,000
1922	339,945,894,000
1923	413,562,132,000
1924	391,981,043,000
1925	413,537,565,000
Total	2,282,258,748,000

Mr. GOODING. Mr. President, I offer another table for the RECORD showing the number of miles of railroad tracks in the United States from the year 1890 up to and including 1925. This table shows that the total number of miles of railroad track for all purposes in 1890 was 199,875 miles. In 1925 we had a total mileage of railroad tracks for all purposes of 415,288 miles, an increase of a little more than 106 per cent.

While our railroad tonnage has increased more than 443 per cent we have reached a point of saturation in America as far as our railroads are concerned, and while we are no longer a new country, we have only made a beginning in the development of our mighty resources. And with the tonnage on our railroads doubling every few years it must be apparent to all that unless we make possible the use of transportation on our inland waterways, the growth and development of this mighty Empire must soon come to a standstill for lack of adequate transportation, for no country can grow and develop beyond its transportation.

I ask that this table be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Number of miles of railroad operated

Year	First track	Other main tracks	Yard track and sidings	Total
1890	156,404	9,760	33,711	199,875
1891	161,275	10,428	35,742	207,446
1892	162,397	10,846	37,807	211,050
1893	169,779	11,632	40,451	221,862
1894	175,690	12,163	41,941	229,794
1895	177,746	12,348	43,181	233,275
1896	181,982	12,439	44,717	239,138
1897	183,284	12,794	45,934	242,012
1898	184,648	13,096	47,589	245,333
1899	187,534	13,384	49,223	250,141
1900	192,556	14,075	52,153	258,784
Increase 1900 over 1890	35,152	4,315	18,442	58,909
1900	192,556	14,075	52,153	258,784
1901	195,561	14,875	54,914	265,350
1902	200,154	15,819	58,220	274,193
1903	205,313	16,947	61,560	283,820
1904	212,243	18,337	66,492	297,072
1905	216,973	19,881	69,941	306,793
1906	222,340	20,981	73,760	317,085
1907	227,454	22,770	77,749	327,977
1908	230,494	23,699	79,452	333,645
1909	235,402	24,572	82,376	342,350
1910	240,830	25,353	85,581	351,764
1911	246,238	27,612	88,973	362,823
1912	249,852	29,366	92,019	371,237
Increase 1912 over 1900	47,296	15,291	39,866	112,453
1912	249,852	29,366	92,019	371,237
1913	253,470	30,826	95,211	379,507
1914	256,547	32,376	98,285	387,208
1915	257,569	33,662	99,910	391,141
1916	259,705	34,325	102,983	397,013
1917	259,705	35,065	105,582	400,252
1918	258,506	36,228	107,608	402,342
1919	258,524	36,729	108,636	403,889
1920	259,941	36,894	109,744	406,579
1921	258,361	37,613	111,555	407,529
1922	257,834	37,888	113,994	409,716
Increase 1922 over 1912				39,479
1923	258,084	38,697	116,212	412,993
1924	258,498	39,916	116,874	415,288
Increase 1923 over 1924				2,295

Mr. GOODING. Mr. President, in this progressive age of ours transportation is vital to every industry, to every community, and to every State in the Union; and the man who would impair the great railroad system of America is an undesirable citizen and should be branded as an anarchist, for our railroads are the arteries through which flow the commerce of the country, the lifeblood of the Nation. On the other hand, Mr. Presi-

dent, the men who operate our great railroads and who for their own selfish interest destroy water transportation in America and force discrimination in freight rates on the interior and deny the people of the interior the right to have jobbing houses to serve themselves or the right to have industries to manufacture their raw materials into the finished product are a hundred times more dangerous to this Government than the anarchist or the Bolshevik; for the anarchist and the Bolshevik will never be dangerous to any government when that government gives the people a square deal; for history teaches us, Mr. President, that selfishness and greed create anarchy, and the two together—selfishness, greed, and anarchy—have destroyed one government after another as far back as history tells the story of the rise and fall of civilization.

Mr. FESS obtained the floor.

Mr. WILLIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Ohio yield to his colleague.

Mr. FESS. I yield.

Mr. WILLIS. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The principal legislative clerk called the roll, and the following Senators answered to their names:

Bingham	Fletcher	McKellar	Simmons
Blease	Frazier	McLean	Smoot
Bratton	George	McNary	Stephens
Brookhart	Goff	Mayfield	Swanson
Broussard	Gooding	Neely	Trammell
Bruce	Hale	Norris	Tyson
Butler	Harreld	Nye	Wadsworth
Cameron	Harris	Oddie	Walsh
Capper	Harrison	Overman	Warren
Copeland	Heflin	Phipps	Watson
Cummins	Howell	Pine	Weller
Deneen	Jones, Wash.	Pittman	Wheeler
Dill	Kendrick	Ransdell	Williams
Edge	King	Robinson, Ark.	Willis
Ferris	La Follette	Schall	
Fess	Lenroot	Sheppard	

The VICE PRESIDENT. Sixty-two Senators having answered to their names, a quorum is present.

Mr. FESS. Mr. President, I desire to make some remarks upon the bill that is before the Senate dealing with the long-and-short-haul clause of the interstate commerce act. It will be out of question for me to conclude to-night what I desire to say. I presume it is too early to adjourn at this stage, and therefore it would be expected of me to proceed, though I can not possibly finish this evening. In that case I should like to continue to-morrow.

Mr. President, the Senator from Idaho [Mr. GOODING], the author of the bill, among other things that he said I might agree with, stated that all Senators ought to view the problem from a national rather than a local standpoint. To that principle I subscribe. I think that ought to be the determining factor in the final decision upon the bill, because whatever else we might do without the Nation can not maintain its standing without transportation. There may be some things that seem now to be absolutely useful that we could as a nation get along without, but that can not be said about transportation. The country could not exist industrially or in any other way without the maintenance of a transportation system that will make the Nation a unit.

There has been considerable agitation as to whether rail transportation has prevented water transportation. I do not think it has. I recognize, however, that the old canal system, which was so prominent in my own State and which once carried most of the traffic, has ceased to exist. It ceased not especially because it was not needed but because there was adopted a more rapid, more efficient, and more economic method of transportation. Whenever transportation by rail finds itself incapable of serving the country, then without doubt the canal system will again be reinstated. Until that time comes it will not be revived in my own State.

The same thing might be said in a sense about the rivers. There was a time when there was a great amount of traffic upon the Ohio River. It is not so great now, but I think without a doubt that when we complete the canalization of that great water route, which is about to be completed and will be completed as far as Cairo by 1930, then there will be an opportunity to know something about what will be the ability of water transportation over that river. I think without any question that it will be great enough to justify the expenditure of all the money the Government has thus far expended.

What is said about that route could be said also about other river routes when the necessity for carrying the traffic shall appear. Whatever be the outcome of river transportation, which I think without a doubt will be useful and will become general, we can not do without rail transportation unless we substitute something that is better, and that is not within the purview of anyone now living. It seems to me, therefore, that the big question is the maintenance of our transportation lines to serve the public and, as the new development may require new routes, to develop them also. For that reason the policy of the Government has been to encourage not only railroad building but also transportation on the water. I read the policy of the Government as outlined in the transportation act of 1920:

> SEC. 500. It is hereby declared to be the policy of Congress to promote, encourage, and develop water transportation, service, and facilities in connection with the commerce of the United States and to foster and preserve in full vigor both rail and water transportation.

That is the policy of the Government. In accordance with that policy the Interstate Commerce Commission is working.

Mr. President, when the Interstate Commerce Commission was originally created in 1887 there was some opposition to it. A great many people thought that the Interstate Commerce Commission would exercise a function that might interfere with private enterprise; that it, being a Government agency, would interrupt the initiative of private enterprise. But it was a well-established fact that the railroads had long ceased to be merely private. They were private in ownership, but quasi public in function, if not entirely so.

Mr. BROOKHART. Mr. President, will the Senator from Ohio yield to me?

Mr. FESS. I yield to the Senator.

Mr. BROOKHART. The Senator has announced that it has been the American policy to build up both water and rail transportation. That is not true in the Mississippi Valley, is it, where discriminatory rates have destroyed river transportation?

Mr. FESS. I think that is true as a policy throughout the country. The Government can not establish a policy and limit it to one particular section of the country.

Mr. BROOKHART. Does not the policy of permitting a lesser rate for a long haul than for a short haul distinctly destroy water transportation anywhere?

Mr. FESS. Not under the rulings of the Interstate Commerce Commission, I will say to my friend from Iowa; and I shall touch upon that, because that is the crux of this entire affair.

I was about to say, however, that the railroads, though private in ownership are public in function. That is one of the reasons why I think Congress ought to be very slow about interfering in the disputes that arise between the contracting parties who operate the railroads. I did not like and voted against the Adamson bill in 1916, for the reason that I thought a dispute arising out of wages should be a matter of contract and that the Government should never interfere except when the public interest was at stake. To-day we recognize that the operators have as their chief concern the dividends or the profits of the industry they own. I, as a Senator, as well as every other Senator, must respect the rights of the investor, and any legislation proposed upon which we would vote must necessarily take into consideration that element; but no Senator can be merely a representative of the investor or the owner, whose interest is the income from the investment.

The same thing may be said about the employees. There are 2,000,000 people employed on the railroads, representing, with their families, 5,000,000, and, if we speak of those who are interested in railroads, it would be probably our entire population. We want to see that the employees working in transportation have not only good wages, but steady employment, under the best possible conditions; and no legislation that will ignore that element of transportation is wise. Every representative in Congress in considering legislation must keep in mind the interests of that party.

But, Mr. President, there is a third party, and that third party is the most important of the three. His interest is in service; and he pays the expenses for transportation. When we legislate on matters of this sort, while keeping in mind the rights of the investor and the rights of the employee, the major concern should be the public that pays the bills. For that reason the railroads long ago came to be more than merely private enterprises; they are now, in a distinct manner, a public function and must be dealt with as such. Therefore we subscribe to the principle that the Interstate Commerce Commission is performing a function, although governmental, that is warranted by the public interest in this great industry.

First, the Interstate Commerce Commission was denied certain powers that some wanted to give it. Later on it was given the power of rate making. I recall, as every Senator here will recall, the bitterness of the contest that was waged as to whether constitutionally the Interstate Commerce Commission could exercise the power of rate making; but it was finally

decided, not only by legislation but by the judicial decision of the highest court of the land that the Interstate Commerce Commission did have that power.

Some of us feared that the Interstate Commerce Commission might feel the pressure of political interests or might yield to predatory interests or might succumb to mob rule, in which event great danger would threaten us; but I believe that every Senator here who has watched the activities of this commission is satisfied that it is above reproach; that it has not yielded its judgment to any interest; that it performs its function independently, guided by its best judgment as it sits in each individual case.

It is the humor, however, of the human mind to find fault with any deciding body when that body decides against the interest of the individual. I do not think that is wise, and I am sure that it is not a good policy. Personally I am frank to say that I was considerably disappointed in the recent decision of the Interstate Commerce Commission as to the proposed merger of the Van Sweringen railroad interests. I was seemingly committed in my own mind to the thought that the action proposed to be taken was in accordance with safe policy, in view of the fact that, under the transportation act of 1920, we had made provision for the voluntary consolidation of railroads. The distinguished senior Senator from Iowa [Mr. CUMMINS] has introduced a consolidation proposal to make even more effective and to speed up consolidations, which thus far have been very slow under the voluntary method. Consequently I had thought that the voluntary merger proposed for the Van Sweringen system would be wise. So when the decision was rendered I confess I was greatly disappointed; but I went into the findings of the decision; I looked into the basis of the final judgment of the Interstate Commerce Commission; and I then had to come to the conclusion that the commission had acted wisely.

I should be the last person to impugn their judgment. Because I was disappointed in the commission not having decided according to my view, with the limited data I had, although I was a member of the Committee on Interstate Commerce of the Senate, I would not be justified in attacking the commission because it decided in accordance with its own judgment, which was adverse to my own judgment at the time. However, as I have said, it is the humor of the individual if a decision upon a hotly contested issue is against him immediately to attack the body that renders the decision, as being unfair, or discriminatory, or slow to recognize the merits of the case as he views it.

There has been no body of a governmental character that has shown itself so free from undue pressure, from whatever source, as has the Interstate Commerce Commission. That is one reason why I have from the beginning, not only at the last session but at this session, resisted the proposal to take from the Interstate Commerce Commission the rate-making power and bring it to the floor of Congress, which too often acts from political angles and because of political interests. It seems to me that that of itself is the greatest danger in the pending proposal. Mr. President, I am concerned in maintaining the independent integrity of this governmental function, and I do not want the Congress to undertake to bludgeon the commission because it does not happen to decide in a way that some individual Member of the Congress should like to have it decide.

When we come to the immediate problem before us, we have a policy which has been outlined in the law and is now the law. The first section of the interstate commerce act, as amended in 1920, contains this provision:

> For the transportation of persons or property in carrying out the orders and directions of the President, just and reasonable rates shall be fixed by the Interstate Commerce Commission.

That is the rule of action, "just and reasonable rates." Of course, nobody is going to contest the justice of that declaration.

Mr. SIMMONS. And that applies to minimum as well as maximum rates?

Mr. FESS. Yes.

Section 2 provides:

> That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered or to be rendered in the transportation of passengers or property or the transmission of intelligence, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation or transmission of a like kind of traffic or message under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

In other words, section 2 forbids rebates or special rates or discriminations between parties living in the same locality.

Mr. BROOKHART. Mr. President——

Mr. FESS. I yield to the Senator from Iowa.

Mr. BROOKHART. Under the principle announced by the Senator, should not the matters just referred to be left to the commission instead of being prescribed by the Congress of the United States?

Mr. FESS. In the first place, it would be perfectly safe, I think, to leave them to the commission, but it is so perfectly apparent that such practices should not be allowed that it is just as well to make the prohibition a part of the law. That is not a question of dispute.

Mr. BROOKHART. The long-and-short-haul provision is another prohibition against discrimination in addition to those enumerated.

Mr. FESS. No; that involves a very different proposition. Section 3 provides:

> That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever; or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Section 4 is the long-and-short-haul provision. The principle in that section is that a transportation company can not charge more for a long haul than a short haul over the same line, the long haul including the short haul, with the following proviso:

> *Provided*, That in special cases where the conditions would justify it the commission may permit a smaller charge for a long haul than for a short haul.

In other words, section 1 requires the rates to be just and reasonable; section 2 forbids rebates; section 3 denies discriminations in favor of localities; section 4 forbids a less rate for a long haul than a short haul, with a proviso, and the proviso is that where certain conditions are met, such, for example, as competition with water transportation, or in the case of a longer rail route connecting two points than a competing line, in that case it can be done.

Mr. PITTMAN. Mr. President——

Mr. FESS. I will yield in a moment.

For example, if from Washington City to Pittsburgh there are two routes and one route is much shorter than the other, then the longer route in order to compete with the shorter route would charge the same rate to Pittsburgh, but would be permitted to charge a higher rate to Greensburg, 30 miles this side of Pittsburgh. That is permitted under our present law, and it is permitted also in cases where the competition is with water.

Now I yield to the Senator from Nevada.

Mr. PITTMAN. Mr. President, the Senator has quoted section 3, requiring reasonable rates. Does the Senator know that the Interstate Commerce Commission, in the forms which it provides for the railroads to use in applying for a less rate for the long haul than the short haul, makes them state emphatically that the rate they ask for is unreasonable?

Mr. FESS. No. I will state to the Senator what the commission says. I will read it now.

Mr. PITTMAN. Will the Senator read the form?

Mr. FESS. I will read it now. Mr. President, I read from the testimony of a member of the commission who came before the committee, Commissioner Esch:

> In the light of these and similar considerations, we are of opinion and find that in the administration of the fourth section the words "reasonably compensatory" imply that a rate properly so described must (1) cover and more than cover the extra or additional expenses incurred in handling the traffic to which it applies—

In other words, it is not the out-of-pocket expense. That would not be allowed. It must be beyond the out-of-pocket expense. No road at any point competing with a water line can carry the traffic at a less rate than it costs. It must be reasonably compensatory. Of course, it need not be fully compensatory, but it must be reasonably compensatory; and the first condition is that the rate must be not only enough to cover the extra or additional cost, but it must be high enough to add something in the way of profit.

Mr. PITTMAN. Mr. President, the Senator did not understand my question.

Mr. FESS. I am not through reading it.

Mr. PITTMAN. That is not the form about which I asked the Senator. That is the criterion. The form is the thing that the railroads must sign. Does the Senator know what that form is—the form that the railroads must swear to? May I read it to the Senator and see if he knows it?

Mr. FESS. The Senator may read it in his own time.

Mr. PITTMAN. Ah! I did not think the Senator wanted to answer that question——

Mr. FESS. The Senator may read it in his own time.

Mr. PITTMAN. Because, if the Senator did, he would not have made the statement that the rate must be reasonable, because they make the railroads say that it is not reasonable.

Mr. FESS. Mr. President, the Senator from Nevada has his own interpretation of the English language. I shall have mine also. I will read now the rule upon which the reasonably compensatory rate is based:

First. It must cover and more than cover the cost.

Second. It must be no lower than necessary to meet existing competition.

Mr. PITTMAN. Mr. President, may I ask another question there?

Mr. FESS. I yield to the Senator.

Mr. PITTMAN. Does the Senator know whether that cost includes any calculation of overhead, any calculation of depletion, any calculation of repairs, any calculation of dividends, or any calculation of interest on indebtedness or bonds or securities? I ask the Senator if he knows whether it does or not.

Mr. FESS. I have not consulted the commission; but I should judge that the commission, in giving their decision, would include all the elements of cost in making up the rate.

Mr. PITTMAN. Then the Senator should read the record, because it does not include any of them.

Mr. FESS. I am very much obliged to the Senator for his instruction. We will see when we get through.

Mr. PITTMAN. The Senator will see when I read the evidence before our committee.

Mr. FESS. Third, the rate must not be so low as to threaten the extinction of legitimate competition by water carriers; and yet Senators will continue to charge that the purpose of this legislation is to destroy water transportation, when the commission fixes as the very basis of its judgment that the rate must not be so low as to threaten the extinction of competition by the water carrier. That is the policy of the Government, as expressed by the commission, against which these men are constantly charging.

Mr. PITTMAN. May I ask the Senator whether or not this proposed rate will take any of the transportation off the Panama Canal? I will ask the Senator just to answer that frankly. Will it?

Mr. FESS. It probably will take some of the traffic that goes through from coast to coast. It probably will take some of the traffic, for example, in San Francisco and the Pacific coast ports.

Mr. PITTMAN. Do not the railroad executives, in making the application, state that they expect to get half of the existing transportation passing through the Panama Canal, exclusive of oil?

Mr. FESS. I will say to the Senator that I have not consulted the transportation heads about this matter.

Mr. PITTMAN. I am talking about the evidence before our committee, sir.

Mr. FESS. I do not recall that they said that.

Mr. PITTMAN. That is their assertion. Would the Senator favor a rate that would let them take half of the transportation off the Panama Canal?

Mr. FESS. I will favor a rate that will maintain the water route in competition with the rail route, but that will give the rail line some of the traffic that thus far it might be denied because of a lower rate.

Mr. PITTMAN. Let me appeal to the Senator's sense of equity on this proposition: If the railroads should take a little over a million tons from the eastbound traffic, or if they should take a million and a half tons from the water, it would take off half of that transportation, and it would only add to the western railroads less than 1 per cent of their present traffic. The railroads would gain 1 per cent and the boats would lose 50 per cent. The railroads would gain 1 per cent at out-of-pocket cost—which, to say the least, is not very remunerative—and the boats would lose 50 per cent.

Another question: When 90 per cent of the traffic through the Panama Canal is steel, going largely from Pittsburgh, can the Senator conceive that if the rate were made so that Pittsburgh would ship by rail half of its steel to Los Angeles and San Francisco it would not ship the rest of it by rail? In other words, if a rate is put in force there that will make the railroads a more advantageous means of shipment, can the Senator conceive that that will give them half of the traffic and will not take it all?

That is the question we are getting down to. Do the railroads want the little out-of-pocket cost revenue on a million and a half tons of their 500,000,000 tons, or do they want to put the Panama Canal out of business? Is not that the question that we have before us?

Mr. FESS. The Senator knows that there will be no act on the part of the Interstate Commerce Commission that will put the Panama Canal out of business. That will not be done. This is simply a scarcrow that is being put up to frighten people. The Interstate Commerce Commission specifically states that this is the rule of action; and Congress, of course, would not permit a body, no matter what it is, to put out of business a transportation line that cost as much as the Panama Canal cost the Government. There is no desire to do it.

I am just as much a friend of the water carrier as is the Senator from Nevada. I live near a river. I believe in water transportation. I have always supported it. I have not, however, any fear such as he seemingly entertains that when the Interstate Commerce Commission permit the lowering of a rate to enable the railroads to get a portion of the traffic that goes from the Atlantic coast to the Pacific coast, they will allow it to be carried at a rate so low that it will destroy the Panama Canal. That is inconceivable. It will not be done.

Mr. PITTMAN. I do not criticize the Senator. I have every confidence in his intentions in the matter; but here is the proposition which bothers me as a member of the Interstate Commerce Committee:

Mr. Esch of the Interstate Commerce Commission testified the other day that he did not think the rate of 80 cents would give the railroads over a quarter of the traffic. That is what he said. I do not think it will give them over a quarter. I do not believe that Mr. Esch would give them over a half; but here is the proposition:

In the first place, we are construing the statute which says "reasonably compensatory" as which is construed as out-of-pocket rate that has been talked about, which I say the testimony will show does not include overhead or dividends or interest or depletion or repairs of the railroads. Mr. Esch thinks he can stop it at a half.

The Senator thinks the commission can stop it at a half. In the first place the great question is whether or not we should maintain the traffic over that canal in full vigor. That is what the act says; but admitting for argument that the railroads are entitled to a half, does the Senator think it is a safe thing for the Congress of the United States to allow a discretion to remain in a body like the commission, which is going to try to give the railroads a half, when the intelligence of the situation in the case is that if it gives the railroads a half they will take it all?

Mr. FESS. I think the public welfare as determined by transportation, including the Panama Canal, is in just as safe hands when it is in the hands of the Interstate Commerce Commission as it would be if it were in the hands of any equal number of Senators who are here on this floor representing any particular local interest that they might at that time be representing. In fact, I think it is a good deal safer, because the members of the Interstate Commerce Commission are selected, first, because of their efficiency in traffic problems; and while I should like to think myself reasonably intelligent upon some subjects, I have not the ability to decide these problems that they have, and I doubt whether my genial friend from Nevada has the ability to decide them that the Interstate Commerce Commission has. In other words, without offending him, I should much prefer to leave the decision to the Interstate Commerce Commission rather than to him or to any group in the Senate.

Mr. PITTMAN. The Senator is right, and I agree with him. I think wherever there is a traffic discretion, it ought to be left to traffic experts; but this is the sole problem that is presented here:

A discretionary body having indicated over a long period of years that they are going to use a discretion in a definite way—that is, that they are going to interpret "reasonably compensatory" to mean the out-of-pocket cost, which means the coal in the engine, the engineer and the fireman and two brakemen—so as to enable the railroads to get half of the water traffic through the canal; having indicated that that is their policy, that that is their discretion as already announced, I ask the Senator whether it is not time for the Senate of the United States to say: "That discretion, in our opinion, is either right or wrong"; and, if it is wrong, "You having exerted it for a period of years, we will withdraw that discretion as far as water transportation is concerned"?

Mr. FESS. Mr. President, I have none of the fears that the Senator from Nevada has in regard to the effect it is to have upon the Panama Canal.

Mr. WATSON. Mr. President, the Senator a while ago gave an illustration of two roads running from here to Pittsburgh.

The VICE PRESIDENT. The Senator will please address the Chair.

Mr. WATSON. I did address the Chair.

The VICE PRESIDENT. The rule requires that Senators shall face the Chair.

Mr. WATSON. Does the rule require that I face the Chair?

Mr. McKELLAR. And will the Senator talk a little louder?

Mr. WATSON. I did not know that the rule required that I face the Chair.

The VICE PRESIDENT. It does.

Mr. WATSON. I beg the Chair's pardon. How can I address the Senator from Ohio, who is back here, while I am facing the Chair?

The VICE PRESIDENT. That is the requirement of the rule.

Mr. WATSON. Well, I am against that rule. Will the Senator from Ohio come around in front, so that I can face both him and the Chair?

Mr. FESS. I am afraid the Senator has forgotten his question.

Mr. WATSON. No. There are two competing lines between here and Pittsburgh, and, of course, one must meet the competition of the other. Greensburg is part way between here and Pittsburgh, and naturally they would allow more for the short haul than for the long haul in order to meet the competition.

The problem here is not the problem as stated by my friend from Nevada, our associate on the committee, but that these transcontinental rates shall be such that they shall meet the water competition. It does not mean that they are going to take all the traffic, or that the water is going to take all the traffic.

Mr. FESS. It is forbidden.

Mr. WATSON. Precisely. But they shall meet that competition, just as two railroads meet competition.

Mr. PITTMAN. How much can they take and how much can they not take?

Mr. WATSON. Nobody knows about that. How much shall these two railroads take, I ask my friend, in the illustration given by the Senator from Ohio at the outset of his remarks? It is a question of competition; and then, when the competitive rate is met, it becomes a question of service as to which shall get the major portion of the traffic. It can not be any other way. It is a question of meeting the competing rate out at the Pacific ports.

Mr. FESS. That is what I was trying to say to the Senate, to give the guiding principles or the basis upon which the Interstate Commerce Commission makes its ruling. It states specifically first that the rate must be reasonably compensatory in that it must not only take care of the out-of-pocket cost, but it must add something to it, so that there will be a profit. Secondly, it must not be any lower than to enable the carrier to meet competition such as the Senator has been mentioning. Third, it must not be so low as to threaten the water competitor. Fourth, it must not put any undue burden on other traffic elsewhere. Fifth, it must not be so low as to jeopardize the transportation act, which makes possible the allowance by the Interstate Commerce Commission of a rate sufficient to make a fair return on the investment.

Those are the fundamental steps upon which the Interstate Commerce Commission makes its decision as to whether they will permit a smaller return for a longer haul than for a short haul. It seems to me, unless we are afraid of the Interstate Commerce Commission in its judgments violating the equities of the situation and paying no attention to the public welfare, unless that is our view, that is the only body in which to lodge this matter, and it ought to be lodged there rather than here in Congress.

Mr. PITTMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Nevada?

Mr. FESS. I yield.

Mr. PITTMAN. The Senator thinks they could get half of the transportation; so does the chairman of the committee——

Mr. FESS. The Senator must not put in my mouth something I have not said. I do not know what they would get.

Mr. PITTMAN. Let me see if the Senator would agree with this. Here is the testimony of the president of the Northern Pacific Railroad, just about one sentence. This is what Mr. Donnelly said:

If it is the policy of the Interstate Commerce Commission that the railroads shall be permitted to handle any and all traffic which shall show some profit above the out-of-pocket cost, then the railroads can handle all the business now transported by steamship, both east and west, through the Panama Canal.

Does the Senator think that is true?

Mr. FESS. They might be able to do it.

Mr. PITTMAN. That is what the president of the road said.

Mr. FESS. They might be able to do it. The Senator from Nevada is well enough acquainted with the law and the practice of this commission to know that if a ruling by the commission should be found to be hurtful, it could be changed just as easily as it was made. It is not like the laws of the Medes and Persians. It can be repealed or annulled by the body which originally made it.

Mr. EDGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from New Jersey?

Mr. FESS. I yield.

Mr. EDGE. So many suggestions have been made by the Senator from Nevada as to what the decision would be that I would like to ask a question. As I understand it, this law has been in existence for some time, and the Interstate Commerce Commission have had the power to make these decisions upon application. Has the Senator any report or any figures as to what the result has been, for instance, as to the use of the Panama Canal?

Mr. FESS. There has been no ruling. In the first place, there was an application for the lowering of the rate to the Pacific coast in 1917. The ships were withdrawn for war purposes, as the Senator knows, and the ruling was denied at the time. The application is made now on these 42 items to which the Senator from Idaho called attention and which are shown on the paper pinned on the map which the Senator from Idaho supplied. But there has been no action upon the application. This is what I do not like: Here is a case presented to the Interstate Commerce Commission, the proper body to decide it, which we are now proposing to take from the commission, and bring on this floor. The Senator from Idaho would have us believe that the thing has already been done, and that the intermountain country is suffering tremendously because of what he calls a discrimination. That has not been done. There has been no decision on this application by the commission.

Mr. PITTMAN. I rise for the purpose of making a correction.

Mr. EDGE. The Interstate Commerce Commission has really made no decisions along this line?

Mr. FESS. On many items——

Mr. EDGE. Where they have made decisions, has it been with the result spoken of by the Senator from Nevada?

Mr. FESS. The result has demonstrated the wisdom of the decisions.

The VICE PRESIDENT. Senators will address the Chair when they desire to interrupt a speaker, for the benefit of the reporters, if for that of no one else.

Mr. FESS. I will state to the Senator from New Jersey that the decisions have justified their wisdom, otherwise the commission would have canceled the ruling.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. FESS. I yield.

Mr. CUMMINS. I desire to ask the Senator from Ohio a question, not to indulge in an argument. Does the Senator from Ohio interpret the law of 1910 as the Interstate Commerce Commisison has interpreted it with respect to what constitutes a compensatory rate?

Mr. FESS. I do.

Mr. CUMMINS. I have only one comment. I was the author of that phrase when it went into the interstate commerce law. I did not mean what the Interstate Commerce Commission has subsequently determined the law to mean. I expressed my view very fully and very clearly before the Senate when the law was enacted, and the interpretation I put upon that phrase was radically and essentially different from the interpretation which the Interstate Commerce Commission has put upon it. I think that in view of the action of the House and the Senate in 1920 the Interstate Commerce Commission ought to have given a different construction or interpretation to the phrase "a compensatory rate."

Mr. FESS. Does the Senator mean that "reasonably compensatory" should be construed to mean fully compensatory?

Mr. CUMMINS. Yes; I do.

Mr. FESS. I think the Senator is mistaken.

Mr. CUMMINS. I mean that a reasonably compensatory rate is a rate that will contribute to the income of the carrier its share of the burden which the carrier must bear: that a reasonably compensatory rate is one which the Supreme Court of the United States would hold to be not confiscatory. "Compensatory" and "confiscatory" are antagonistic terms, and any rate that is not confiscatory is reasonably compensatory.

Mr. WATSON. Mr. President, does the Senator make a distinction between the phrases "a reasonable rate" and "a reasonably compensatory rate"?

Mr. CUMMINS. There is a difference. A reasonable rate is one which, taken together with all other reasonable rates, may contribute enough to make a fair return upon the property of the carrier. A rate that is reasonably compensatory is a rate which will bear its fair share of the burden. That is what we intended.

Mr. ROBINSON of Arkansas. May I ask the Senator from Iowa a question, with the permission of the Senator from Ohio?

Mr. FESS. I yield for that purpose.

Mr. ROBINSON of Arkansas. Is a reasonable rate ever confiscatory?

Mr. CUMMINS. No; it is not.

Mr. ROBINSON of Arkansas. Is a rate which merely yields a sufficient sum to pay expenses of operation reasonably compensatory?

Mr. CUMMINS. It is not, from my point of view.

Mr. ROBINSON of Arkansas. Are Senators in accord as to what constitutes out-of-pocket cost? Is there any difference of opinion among Senators as to that?

Mr. CUMMINS. I think there is a little difference of opinion among students of the subject with respect to the phrase "out-of-pocket cost."

Mr. ROBINSON of Arkansas. May I ask the Senator from Iowa whether he is prepared to state what he would regard the phrase "out-of-pocket cost" as embracing?

Mr. FESS. I yield to the Senator from Iowa. I would be glad to have the Senator's construction.

Mr. CUMMINS. I submit my view upon that with great diffidence. I think that an out-of-pocket cost is the cost of maintenance and operation, and it includes the overhead cost, it includes every other cost that enables the carrier to perform the operation which it is performing. There are some students of the subject who believe that an out-of-pocket cost is simply the cost of performing that particular service, running the particular train which carries the commodity that may be under consideration. I do not agree with that view.

Mr. ROBINSON of Arkansas. With the further permission of the Senator from Ohio, will the Senator from Iowa state the difference between his construction of the term "out-of-pocket cost" as applicable to this controversy and that given by the Interstate Commerce Commission? What do they hold?

Mr. CUMMINS. I do not know that the Interstate Commerce Commission has construed it differently from the way I stated it.

Mr. PITTMAN. May I call this to the attention of the Senator and ask him if this is not his idea of it? Colonel Thom, who has represented the railroad executives at all of our hearings, and whom the Senator from Iowa has heard, gave this testimony before the House committee, which was read to him by me the other day to see whether or not it described the understanding of the railroad executives as to out-of-pocket costs. I said:

> Here is the statement that you made before the Committee on Interstate Commerce of the House in the hearing on this same bill (S. 2327), as follows:
>
> Mr. BURTNESS. Mr. Thom, may I ask just one question? As the term "out-of-pocket cost" is generally used, does that contemplate spending a portion of the overhead expense?
>
> Mr. THOM. I think it contemplates the haulage costs.
>
> Mr. BURTNESS. Simply the haulage costs or the additional traffic?
>
> Mr. THOM. But it must not only cover that but more than that.
>
> Mr. BURTNESS. Under the order of the commission?
>
> Mr. THOM. Yes.
>
> Mr. BURTNESS. I am referring now simply to the general expression "out-of-pocket cost."
>
> Mr. THOM. That is generally applied to the haulage costs.

Mr. CUMMINS. I do not agree with Mr. Thom about that.

Mr. ROBINSON of Arkansas. I have asked these questions for the purpose which will be disclosed by the following question: Taking the definition of "out-of-pocket costs" as given by Mr. Thom, if a railroad were required to carry on all of its business for rates which merely yielded out-of-pocket costs, would or would not the rates as a whole be confiscatory? Would they or would they not be compensatory in any degree?

Mr. CUMMINS. It would undoubtedly be held by the Supreme Court or by any court to be confiscatory.

Mr. ROBINSON of Arkansas. Then how can it be held that a given rate, which merely defrays what is denominated as out-of-pocket cost, is reasonably compensatory?

Mr. CUMMINS. I do not think it can be so held.

Mr. PITTMAN. Mr. President, may I ask the Senator from Iowa another question, with the permission of the Senator from Ohio?

Mr. CUMMINS. I am trespassing upon the good nature of the Senator from Ohio.

Mr. FESS. I am glad to yield to the Senator from Nevada.

Mr. PITTMAN. Here is what Commissioner Esch testified the other day on the subject of confiscation:

> On their contention that they could not afford to make the reduction to the Pacific coast terminals and spread that reduction throughout the intermountain points.

He was speaking about the railroad executives—

> As justification of that argument on their part, I remember one item of the evidence relating to structural steel, say, from Chicago to San Francisco, on a proposed rate of 20 cents per hundredweight, the roads would lose $6,000,000 in revenue. If that reduction were extended throughout the intermountain territory, the loss would be $67,000,000. And that was used as a reason why they could not afford to make reductions to the Pacific terminals and extend those reductions back to the intermediate points.

Mr. CUMMINS. Will the Senator from Ohio allow me just a moment more, because I am very much interested in the matter?

Mr. FESS. I am glad to yield to the Senator from Iowa.

Mr. CUMMINS. In the first place, I want it to be understood that I am in favor of the pending bill. I do not want any misunderstanding about that. I am not in favor of it for all the reasons that have been given by the Senator from Idaho [Mr. GOODING], who has spoken this afternoon.

The way it came about in the act of 1920 was about as follows: We had provided in that act that the Interstate Commerce Commission should fix rates in the United States, as a whole or in districts into which the country might be divided by the Interstate Commerce Commission, which would result as nearly as may be in a net operating income that would pay 5½ per cent upon the value of the railway property as a whole or the value in any district into which the country should be divided, with the privilege on the part of the Interstate Commerce Commission of adding one-half of 1 per cent for purposes other than the cost of transportation; that is, for capital account, for expenditures in additions, betterments, and extensions.

Then we came to section 4. A proposal was made by the very distinguished former Senator from Washington, Mr. Poindexter, and the proposal was that we should not permit any railway to charge more for a short haul than for a long haul in the same direction over the same railroad for the same commodity. We had a great deal of trouble about it, because there was the same difference of opinion then that there is now.

That difference was finally composed by providing that one of the conditions which must be observed by the Interstate Commerce Commission in granting relief from the fourth section should be that the rate for the long haul, if it was a less rate than the rate for the short haul, must be reasonably compensatory. When the fact is recalled that we provided for an aggregate return on the value of the entire railway property, no one could misunderstand the consequence of the provision in section 4, incorporated in 1920, and that is that the rate should at all events contribute its share toward the return that we had provided the railroads should enjoy.

When we came to the floor of the Senate and I reviewed the bill as it had been reported by the committee, I laid special emphasis upon that interpretation of the amendment which we had made to section 4. No one could have been more surprised than I about any interpretation of a law that was ever made or published by a judicial or semijudicial body than when it was discovered that the Interstate Commerce Commission were of the opinion that the construction I had given the clause was not the true construction, and placed a different construction upon it.

Mr. FESS. Mr. President, I understand it is the desire of a Senator to bring before the Senate another matter, so I shall discontinue for this afternoon and ask permission to continue the discussion to-morrow.

The VICE PRESIDENT. The Chair desires to make a statement in behalf of the very able and conscientious reporters of the Senate. A few minutes ago it was in their behalf that he

spoke when he referred to the rule which requires a Senator to address the Chair when interrupting the Senator who is entitled to the floor. It is difficult enough to take the debates, but it is absolutely impossible to take them properly when two are engaged in debate if the rule is not observed. In their behalf, the Chair would ask care in debate hereafter, which is liable to be colloquial, that two Senators do not speak at the same time. That, the Chair understands, is one of the chief reasons why Senators are expected to address the Chair, so that the reporter may know when the next speaker is to start. Otherwise the reporters will often find that the debate becomes a little too informal.

Mr. BUTLER. Mr. President, I ask the Chair to lay before the Senate resolutions on his table from the House of Representatives.

DEATH OF REPRESENTATIVE HARRY I. THAYER

The VICE PRESIDENT. The Chair lays before the Senate resolutions from the House of Representatives, which will be read:

The Chief Clerk read the resolutions of the House, as follows:

Resolved, That the House has heard with profound sorrow of the death of Hon. HARRY I. THAYER, a Representative from the State of Massachusetts.

Resolved, That a committee of 18 Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect this House do now adjourn.

Mr. BUTLER. Mr. President, I offer the resolutions which I send to the desk and ask for their adoption.

The VICE PRESIDENT. The resolutions will be read.

The resolutions (S. Res. 168) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. HARRY I. THAYER, late a Representative from the State of Massachusetts.

Resolved, That a committee of six Senators be appointed by the President of the Senate, to join the committee appointed on the part of the House of Representatives, to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

The VICE PRESIDENT appointed Mr. BUTLER, Mr. GILLETT, Mr. MOSES, Mr. HARRISON, Mr. ASHURST, and Mr. BROUSSARD as the committee on the part of the Senate under the second resolution.

Mr. BUTLER. Mr. President, I move, as a further mark of respect to the deceased Representative, that the Senate take a recess until to-morrow at 12 o'clock.

The motion was unanimously agreed to; and (at 5 o'clock and 10 minutes p. m.) the Senate took a recess until to-morrow, Saturday, March 13, 1926, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

FRIDAY, *March 12, 1926*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Look upon us, O Lord, while we breathe the chant of the ages: "Holy, holy, holy, Lord God Almighty." Heaven and earth are filled with Thy goodness, and Thy mercy is everlasting. Hear us, help us, and lead us to repose our confidence in Thee. May we be constantly mindful that the basis of all worthy achievement is in unswerving fidelity to the accepted sanctities of public and private life. Remember the numerous avenues of our country through which the public mind is exercised and direct us, O Lord, to deal justly with all questions. Do Thou bless our households and all their consecrated loves and hopes. In the name of Jesus we pray. Amen.

The Journal of the proceedings of yesterday was read and approved.

ELECTION CASE OF H. O. BROWN AGAINST ROBERT A. GREEN

Mr. GIFFORD. Mr. Speaker, I call up the resolution contained in Report No. 359 from the Committee on Elections No. 3 and ask for its immediate consideration.

The SPEAKER. The gentleman from Massachusetts calls up a resolution, which the Clerk will report.

The Clerk read as follows:

House Resolution 170

Resolved, That Hon. ROBERT A. GREEN was duly elected a Representative from the second congressional district of Florida to the Sixty-ninth Congress and is entitled to his seat.

Mr. GARRETT of Tennessee. Mr. Speaker, I suppose that is a unanimous report?

Mr. GIFFORD. Yes.

Mr. BEGG. Mr. Speaker, by whom is the report made?

The SPEAKER. It is made by the gentleman from Massachusetts by direction of the Committee on Elections No. 3. The question is on agreeing to the resolution.

The resolution was agreed to.

BIG SANDY RIVER BRIDGE, KENTUCKY-WEST VIRGINIA—CONFERENCE REPORT

Mr. DENISON. Mr. Speaker, I ask unanimous consent to call up conference report on H. R. 5043, granting the consent of Congress to the Midland & Atlantic Bridge Corporation, a corporation, to construct, maintain, and operate a bridge across the Big Sandy River between the city of Catlettsburg, Ky., and a point opposite in the city of Kenova, in the State of West Virginia.

Mr. BEGG. Mr. Speaker, reserving the right to object, what kind of a bill is it?

Mr. DENISON. It is a bridge bill.

The SPEAKER. The gentleman from Illinois calls up conference report on H. R. 5043, which the Clerk will report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the report?

There was no objection.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5043) granting the consent of Congress to the Midland & Atlantic Bridge Corporation, a corporation, to construct, maintain, and operate a bridge across the Big Sandy River between the city of Catlettsburg, Ky., and a point opposite in the city of Kenova, in the State of West Virginia, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 2.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, and 6, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said Senate amendment insert the following: "at any time after 15 years after the completion of such bridge"; and the Senate agree to the same.

E. E. DENISON,
O. B. BURTNESS,
TILMAN B. PARKS,
Managers on the part of the House.

W. L. JONES,
JAMES COUZENS,
HIRAM BINGHAM,
DUNCAN U. FLETCHER,
MORRIS SHEPPARD,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5043) granting the consent of Congress for the construction of a bridge across the Big Sandy River between the city of Catlettsburg, Ky., and the city of Kenova, W. Va., submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report:

On No. 1: This Senate amendment struck out the period at the end of line 4, on page 2, and inserted a colon and the following proviso: "*Provided*, That such bridge shall not be con-

structed or commenced until the plans and specifications thereof shall have been submitted to and approved by the Secretary of War and the Chief of Engineers as being also satisfactory from the standpoint of the volume and weight of traffic which will pass over it."

The general bridge law of March 23, 1906, provides that plans and specification for all bridges over navigable waters of the United States shall be submitted to and approved by the Secretary of War and the Chief of Engineers before the bridge can be commenced. This power conferred upon the Secretary of War and Chief of Engineers has always been construed as being limited to the interest of navigation and, therefore, under existing law, the Chief of Engineers only examines plans and specifications for proposed bridges with a view to ascertaining whether or not they will interfere with, obstruct, or endanger navigation. Amendment No. 1 will have the effect of requiring also that the Chief of Engineers examine and approve the plans and specifications for proposed bridge with a view to determining whether or not they will be sufficient to provide for the volume and weight of traffic that will pass over the bridge. This amendment is intended to protect the public and see that bridges are made of the proper strength to bear the traffic that will pass over them. The managers on the part of the House receded and agreed to that amendment.

On No. 2: The bill authorized the State or any political or other subdivision or subdivisions thereof to take over by purchase or condemnation the bridge built under the provisions of the act upon paying proper compensation therefor. The Senate amendment struck out the provisions authorizing political subdivisions to purchase or condemn the bridge. The Senate receded from its views on this amendment and agreed to the provisions of the original bill as it passed the House, and the provision giving the right to purchase or condemn the bridge to cities, counties, and other political subdivisions is restored.

On Nos. 3, 4, and 5: As the bill passed the House it authorized the State or any political subdivision thereof to take over and acquire possession of the bridge constructed under its provisions by purchase or condemnation at any time after 15 years after the date of completion under a rule limiting compensation to be paid therefor as provided in the bill.

By Senate amendments 3, 4, and 5, the Senate changed these provisions of the bill so as to allow the States or political subdivisions thereof to acquire possession of the bridge by purchase or condemnation at any time after completion upon paying the full value therefor under the laws of the States in which the bridge is located governing the condemnation of private property for public purposes. And provided further, that if the State took over the bridge by purchase or condemnation after five years from the completion thereof it could do so upon the payment of the actual value of the bridge with any improvements made and less any actual depreciation, not allowing anything for going value or prospective revenues or profits. The managers on the part of the House recede from their disagreement to amendments Nos. 3 and 4 and agreed to amendment No. 5 with an amendment, the effect of which is to give to the States of Kentucky and West Virginia and their political subdivisions the right at any time after 15 years from the completion of the bridge, either jointly or severally, to acquire possession of the bridge either by purchase or condemnation upon the payment of such amount as will represent the actual value of the physical structures with all improvements and less actual depreciation, and without taking into consideration going value or prospective revenues or profits.

On No. 6: The bill as it passed the House provided that if the State or its political subdivision should take over and acquire possession of the bridge by purchase or condemnation under the provisions of the act, it should be for the purpose of making the bridge a free bridge after a period of five years' ownership by the State or other political subdivision. In other words, under the provisions of the House bill the State could, if it chose, operate the bridge as a toll bridge for a period of five years, and thereafter it should operate it as a free bridge. The Senate struck out that provision of the bill, so that if the State or its political subdivisions should take over or acquire possession of the bridge by purchase or condemnation it could either operate the bridge as a toll bridge or as a free bridge, as it chose. The managers on the part of the House receded, and agreed to that amendment.

E. E. DENISON,
O. B. BURTNESS,
TILMAN B. PARKS,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed without amendment House joint resolution of the following title:

H. J. Res. 197. Joint resolution to regulate the expenditure of the appropriation for Government participation in the National Sesquicentennial Exposition.

The message also announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 8917. An act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1927, and for other purposes.

The message also announced that the Senate has passed without amendment bill of the following title:

H. R. 60. An act for the purpose of reclaiming certain lands in Indian and private ownership within and immediately adjacent to the Lummi Indian Reservation in the State of Washington, and for other purposes.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 3217. An act to authorize an appropriation for the construction of a road on the Lummi Indian Reservation, Wash.

The message also announced that the Senate had passed with amendments bills of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 8316. An act granting the consent of Congress to the State highway department of the State of Alabama to construct a bridge across the Coosa River near Wetumpka, Elmore County, Ala.;

H. R. 8382. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River near Aliceville, on the Gainesville-Aliceville road, in Pickens County, Ala.;

H. R. 8386. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across Elk River, on the Athens-Florence road, between Lauderdale and Limestone Counties, Ala.;

H. R. 8388. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tennessee River near Scottsboro, on the Scottsboro-Fort Payne road, in Jackson County, Ala.;

H. R. 8389. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tennessee River near Whitesburg Ferry, on Huntsville-Lacey Springs road between Madison and Morgan Counties, Ala.;

H. R. 8390. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River near Jackson, on the Jackson-Mobile road, between Washington and Clarke Counties, Ala.;

H. R. 8391. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River, on the Butler-Linden road, between the counties of Choctaw and Marengo, Ala.;

H. R. 8463. An act granting the consent of Congress to the construction of a bridge across the Red River at or near Moncla, La.;

H. R. 8511. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River, near Gainesville, on the Gainesville-Eutaw road, between Sumter and Green Counties, Ala.;

H. R. 8521. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River, near Childersburg, on the Childersburg-Birmingham road, between Shelby and Talladega Counties, Ala.;

H. R. 8522. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River, near Fayetteville, on the Columbia-Sylacauga road, between Shelby and Talladega Counties, Ala.;

H. R. 8524. An act granting the consent of Congress to the highway department of the State of Alabama to reconstruct a bridge across Pea River, near Samson, on the Opp-Samson Road, in Geneva County, Ala.;

H. R. 8525. An act granting the consent of Congress to the highway department of the State of Alabama to reconstruct a bridge across Pea River, near Geneva, on the Geneva-Florida Road, in Geneva County, Ala.;

H. R. 8526. An act granting the consent of Congress to the highway department of the State of Alabama to construct a

bridge across the Choctawhatchee River, on the Wicksburg-Daleville road, between Dale and Houston Counties, Ala.;

H. R. 8527. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across Pea River at Elba, Coffee County, Ala.;

H. R. 8528. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River, on the Clanton-Rockford road, between Chilton and Coosa Counties, Ala.;

H. R. 8536. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across Tennessee River, near Guntersville, on the Guntersville-Huntsville road, in Marshall County, Ala.; and

H. R. 8537. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River, near Pell City, on the Pell City-Anniston road, between St. Clair and Calhoun Counties, Ala.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 1343) for the relief of soldiers who were discharged from the Army during the World War because of misrepresentation of age.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bill:

H. R. 6710. An act granting the consent of Congress to the State of Georgia and the counties of Long and Wayne, in said State, to construct a bridge across the Altamaha River in the State of Georgia at a point near Ludowici, Ga.

CALENDAR WEDNESDAY BUSINESS

The SPEAKER. By order of the House to-day business in order on Calendar Wednesday is in order and the Committee on the Merchant Marine and Fisheries has the call. The Clerk will call the committees.

The Clerk called the Committee on the Merchant Marine and Fisheries.

RADIO COMMUNICATION

Mr. SCOTT. Mr. Speaker, I call up H. R. 9971 for the regulation of radio communications, and for other purposes.

The SPEAKER. The gentleman from Michigan calls up H. R. 9971, which the Clerk will report by title.

The Clerk read the title of the bill.

Mr. McKEOWN. Mr. Speaker, I desire to make a point of order against the consideration of the bill on the ground that it is improperly on the calendar and that the only bill which can be called up by the committee is H. R. 9108, and on that I desire to be heard.

The SPEAKER. The Chair will hear the gentleman.

Mr. McKEOWN. Mr. Speaker, the bill H. R. 9971 is a bill for the regulation of radio communications, and for other purposes. This bill was reported to the House and referred to the Committee of the Whole House on the state of the Union subsequent to the report made by the same committee on H. R. 9108, the title of which is for the regulation of radio communications, and for other purposes. That bill had already been considered by the Committee on the Merchant Marine and Fisheries and reported to the Committee of the Whole House on the state of the Union on February 27, 1926, whereas the present bill, H. R. 9971, was reported to the House on March 5, 1926.

Mr. Speaker, there are no precedents which I have been able to find in all the history of the House touching this question. My point of order is this: That certain subjects, including radio, having been assigned by the House to the Committee on the Merchant Marine and Fisheries, that that committee is a standing committee, is the creature of the House, and is governed by the rules of the House.

Now, I want to say that after having considered the subject matter of the legislation, and after having reported a bill upon that subject matter, it is not within the province or power of the Committee on the Merchant Marine and Fisheries to reconsider the subject in identical language or in similar language and cover the subject by a subsequent bill, because the bill when reported to the House becomes the property of the House, and under the precedents it can not be reconsidered by the Committee on the Merchant Marine and Fisheries unless that committee has the unanimous consent of the House to recommit the bill, or by having the bill recommitted to the Committee on the Merchant Marine and Fisheries. The method which was undertaken in this case would mean absolute confusion and chaos and would bring to the House many bills from committees, although upon the same subject, in slightly different language.

I want to call the Speaker's attention to the fact that in the creation of committees the rule is that bills are not assigned to committees, but certain subjects; the bills necessarily contain the legislation, but the subject of the legislation is the matter for the committee to consider. Now, in creating the standing committees the Committee on the Merchant Marine and Fisheries was assigned bills relating to certain subjects, and bills relating to radio are referred to the Committee on the Merchant Marine and Fisheries. Now, my contention is that there may be 1,000 bills referred to this committee upon the subject of radio, but when that committee undertakes to report a bill into this House and report a bill upon radio, as was done in this case, then that committee is without power to report another similar bill upon that subject at this session of the House as long as the other bill is upon the calendar.

In support of that position, I will say that we will have to arrive at a decision by analogy. In ordinary parliamentary bodies the rule is that when a committee reports, it is automatically discharged. That is not true as to standing committees, but the rule is that when the committee reports upon a subject and that report is received, the committee is discharged from the consideration of that subject.

Mr. MADDEN. Will the gentleman yield for a question? It will help to elucidate the point the gentleman is making.

Mr. McKEOWN. Yes.

Mr. MADDEN. Does the gentleman contend that if a committee of the House reports a bill that has been considered by the committee, and that bill goes on the calendar, that I, as a Member of the House, can not introduce another bill on the same subject, either in a modified form or exactly like it, and does the reporting of the first bill take away the right of the committee to report that bill?

Mr. McKEOWN. Yes, sir; and I want to show you why I contend that.

Mr. MADDEN. Of course, there is nothing to that.

Mr. McKEOWN. I want to present the point upon this ground. Suppose a bill is reported out from the committee and not entitled to a place on the calendar; that is to say, suppose a committee reports a bill upon which they reach no agreement. That bill has to go upon the table of the House. Suppose a committee rejects a bill; that bill goes upon the table of the House. Now, can it be said, under the rules of the House providing that the House shall not consider any measure or bill that has been rejected and that it can not consider such matter at the same session of the House, can it be said that a committee that has reported out a bill and has it put upon the calendar can take that subject matter back into the committee and report another similar bill upon the calendar of the House when the committee can not, under the rules of the House, reconsider or entertain a motion to reconsider its action upon the bill in the committee because it is the property of the House and they can not reconsider it?

Mr. BLANTON. Will the gentleman yield?

Mr. McKEOWN. I will yield in a moment.

A committee may not report a bill the subject matter of which has not been referred to the House.

This was decided by the majority leader, Mr. TILSON.

Subjects relating to the merchant marine and fisheries not being in the class mentioned in clause 56 of Rule XI, reports of this committee are referred to the proper calendar. Bills reported adversely are laid on the table. The report when made becomes the property of the House. That is settled, and there is no dispute about that. A vote in the committee can not be altered except by the House.

I contend that if the committee can not vote to reconsider this bill then they can not do indirectly what they can not do directly, and that is when they vote out this latter bill it is a reconsideration of the first bill, and I will show the Speaker in one of the most learned decisions of Speaker Cannon, in 1910, that he went into the proposition to distinguish between substance and similar words of a bill.

A report of a select committee under the old rule automatically discharged a committee. From a standing committee it discharged the committee upon the particular object and the subject of legislation. After a bill has been referred and reported to the House it can not be reconsidered without the consent of the House. [Sec. 413 of Jefferson's Manual.]

When a report has been adversely disposed of, a motion to recommit is not in order. [Vol. 5 of the Precedents, 5559.]

If a committee may not reconsider its vote to report out House bill 9108 except by consent of the House, can one Mem-

ber by reintroducing a bill upon the identical subject, and in all particulars the same except the omission of paragraph 4, by such means obtain a reconsideration of the subject matter of the legislation?

The question here is that Congress deals not so much with the question of the language of bills, except when they are before the Committee of the Whole House, but the subject of the legislation and the object of the legislation.

The bill H. R. 9108 was introduced on February 9, 1926, and referred to the committee. It was reported on February 27, committed to the Committee of the Whole House on the state of the Union and ordered printed. H. R. 9971 was referred March 3, 1926, and reported out on March 5, 1926. Both reports bore instructions to call up the bill.

Now, who is to determine which bill, if they are properly on the calendar, is to be called up? If the committee having once ordered one bill to be reported can not reconsider its action, then how is the House to determine which one of the two bills is to be called up even if the bill is properly on the calendar?

Mr. BLANTON. Will the gentleman now yield?

The SPEAKER. If the gentleman will pardon the Chair, does the gentleman doubt on Calendar Wednesday the committee can call up the bill?

Mr. McKEOWN. Mr. Speaker, the point is that the chairman of the committee has not the authority himself to determine which of the two bills the House committee has authorized to be reported.

Mr. BLANTON. Will the gentleman yield for a question on that point?

Mr. McKEOWN. In just a moment. In other words, the committee having authorized the calling up of the first bill, then having authorized the calling up of a second bill——

The SPEAKER. If the gentleman will pardon the Chair, there was no action taken by the committee, as the Chair understands it, to instruct anybody to call up a particular bill on Calendar Wednesday.

Mr. LEHLBACH. Will the gentleman yield at that point?

Mr. McKEOWN. Yes.

Mr. LEHLBACH. Is it not a fact that the Committee on the Merchant Marine and Fisheries on the 5th day of March, when they authorized the reporting of H. R. 9971, expressly authorized the chairman to call up that bill on Calendar Wednesday?

Mr. McKEOWN. Yes; and that is the very thing I say you can not do, because you had already authorized him to call up the other bill, and you can not reconsider the matter in committee. That is the point I am trying to make.

Mr. CRAMTON. Will the gentleman yield for a question?

Mr. McKEOWN. In a moment. The first bill had never been called up and had never been acted upon, and therefore if the committee can not reconsider its action in authorizing the first bill to be called up, without the consent of the House, how could the committee authorize this bill to be called up, because if it had no authority to reconsider its action in respect of the previous bill then that order would be of no avail.

Mr. CRAMTON. Will the gentleman yield?

Mr. McKEOWN. I will.

Mr. CRAMTON. While the committee can not reconsider its action in ordering a favorable report on a bill what is there to prevent the committee reconsidering its action as to instructions to call up a bill?

Mr. McKEOWN. The first instruction was to call up the other bill. You can not reconsider the proposition of calling up the bill, because it is in the House and you have no authority.

Mr. SCOTT. Will the gentleman yield?

Mr. McKEOWN. Yes.

Mr. SCOTT. I am sure the gentleman believes that he is making a correct statement; but I think when I direct his attention to the statement he has made he will see that it is not exactly in accordance with what occurred. The committee when considering H. R. 5589 and H. R. 9108 took no action instructing the chairman of that committee to bring up that particular bill.

Mr. McKEOWN. I beg the gentleman's pardon; the motion was that the chairman should take all steps possible to call up the bill and, if necessary, ask for a rule.

Mr. SCOTT. That is true.

Mr. McKEOWN. My contention is that you are trying to reconsider the action on that bill while it was the property of the House, and it was not within the province of the committee to do so.

Mr. BLANTON. Will the gentleman yield?

Mr. McKEOWN. Yes.

Mr. BLANTON. Suppose the chairman had 25 bills here; does the gnetleman contend that the chairman has not the right to call up any one he sees fit? That has been the practice for years.

Mr. McKEOWN. I am not talking about what the chairman can do, I am talking about the authority of the committee. Neither the chairman nor any Member can reconsider the action, for the bill is in the control of the House.

Mr. BLANTON. It is in control of the chairman and the committee.

Mr. McKEOWN. No; the chairman is the head of the committee and the committee is the one that has the bill in charge. Now, Mr. Speaker, these bills have the same identical title; the same objective legislation, and is upon the same identical subject.

Standing committees are the creatures of the House by the rules of the House, and, as Speaker Reed said, the committee is the "eye, ear, and hand of the House," governed by the rules of the House. The Committee of the Whole House could not receive a bill on the same subject of the same legislative object after having just reported a bill to the House. The standing committees are governed by the rules of the Committee of the Whole House. Would not it be absurd to say that if the Committee of the Whole House on the state of the Union had reported back to the House with a favorable recommendation that a bill upon a certain legislative subject with a certain legislative object could be immediately reconsidered and recommend the consideration of another bill, one with the paragraph left out or a Senate amendment changed, and report it back to the House? It certainly could not. If the Committee of the Whole House can not do it, the standing committee of the Whole House can not do it, because they are regulated and controlled by the House.

Mr. BEGG. On that point will the gentleman yield?

Mr. McKEOWN. Yes.

Mr. BEGG. Is the gentleman contending that when a committee reports a bill it loses its jurisdiction over the bill to further report?

Mr. McKEOWN. A similar bill and the same legislation; yes.

Mr. BEGG. The gentleman contends when it makes a report it has no further jurisdiction of that subject matter.

Mr. McKEOWN. Now, I am going to read some authorities to the Chair:

> Where two Houses pass similar bills on the same subject it is necessary that one or the other House should pass on the subject.

What is the practice? If the House has a bill on a certain subject and a similar bill is passed in the Senate on the same subject, not in the identical language, what is the rule? The rule is that when the Senate bill comes to the House on a similar subject the Member may move to take up in place of the House bill the Senate bill, it being a similar bill, but not with the same verbiage perhaps. In that case the House has to lay the House bill on the table, because it can not consider either of these two bills on a similar subject matter.

Now, a bill once rejected, another of the same substance, not the same language—another of the same substance can not be brought in the same session. That is from Jefferson's Manual, section 507. I will say that the only case where that was overruled was in 1851, when Speaker Colfax overruled it; but in 1910 Speaker Cannon overruled Speaker Colfax, and he was sustained by a majority of the votes of the House on that question. It is a very interesting decision, in which he discusses this question of subject, substance, and language.

A bill having been rejected by the House, a similar bill, but not identical, on the same subject was held in order. That is the case that I have just mentioned, where Speaker Colfax, in the case of the Committee on Military Affairs, on the appropriation for military activities, where a rider was put in affecting the Territory of Kansas, and afterwards a bill similar to that without a rider was introduced in the House, held upon a point of order that the bill could be considered; but Speaker Cannon in 1910 overruled that decision, and it stands now that they can not reconsider a bill that has been rejected; and if they can not consider a bill that has been rejected, then they can not reconsider the bill that has been passed. If they can not reconsider a bill that is passed in the same session, a committee can not reconsider a bill reported on and brought into the House unless it gets the consent of the House to reconsider the subject.

Mr. SINNOTT. Mr. Speaker, will the gentleman yield?

Mr. McKEOWN. Yes.

Mr. SINNOTT. The gentleman has spoken of substituting Senate bills that come over from the Senate for similar House

bills. How would the gentleman substitute a Union Calendar bill? The rule provides only for the substitution of a House Calendar bill, and so a Union Calendar bill covering the same subject matter would have to go to the committee. It is only a House Calendar bill of similar import that you could substitute.

Mr. McKEOWN. It could not report out both bills.

Mr. SINNOTT. It would have the same subject matter before a second time. It would have to in order to handle a Union Calendar bill.

Mr. McKEOWN. Mr. Speaker, with a rule of reconsideration it is rarely ever attempted to bring forward a bill when it is rejected. I now call the Speaker's attention to the rules covering this matter in Parliament, and read from the parliamentary debate. Here was the point of order and citation made in this particular case:

Mr. STANLEY LEIGHTON. I rise, sir, to a point of order. I wish to call your attention to the fact that Part VIII of the bill, which we are now asked to read a second time, is the same in substance as the bill the second reading of which was resolved in the affirmative on Monday last. I presume that you, sir, take official cognizance of the contents of that bill. Its object and its title is "To establish a court of appeal in criminal cases." Part VIII of this bill also proposes to do the same thing by providing that any five judges of the high court shall be a court of appeal in criminal cases. And it is further proposed that that court, when constituted, shall deal with the same subject matters as those which are included in the bill already referred to the grand committee—that is to say, the constitution, jurisdiction, and evidence which appertain to a criminal appeal court. Now, I wish to call your attention to the law of Parliament on this matter, as stated in the book to which we all refer. I find that on page 305 of Sir Erskine May's book, it is said:

"It is a rule in both Houses not to permit any question or bill to be offered which is substantially the same as one on which their judgment has been expressed in the current session. This is necessary, in order to avoid contradictory decisions, to prevent surprises and to afford proper opportunities for determining the several questions as they arise. If the same question could be proposed again and again, a session would have no end, or only one question could be determined, and it would be resolved first in the affirmative and then in the negative, according to the accidents to which all voting is liable, and a mere alteration of the words of a question, without any substantial change in its object, will not be sufficient to evade this rule."

And then Sir Erskine May proceeds to quote precedents—

"On the 7th of July, 1840, Mr. Speaker called attention to a motion for a bill to relieve dissenters from the payment of church rates before he proposed the question from the chair. Its form and words were different from those of a previous motion, but its object was substantially the same, and the House agreed that it was irregular and ought not to be proposed from the chair. Again, on the 15th of May, 1860, the order for the second reading of the charity trustees bill was withdrawn, as it was discovered to be substantially the same as the endowed schools bill, which the House has already put off for six months."

Mr. SNELL. Mr. Speaker, will the gentleman yield?

Mr. McKEOWN. Yes.

Mr. SNELL. As I understand the gentleman's contention, it is that the subject matter in each one of these bills is practically the same?

Mr. McKEOWN. Yes.

Mr. SNELL. If it is, then what is the objection to considering either one and letting the bill come before the House and have it considered.

Mr. McKEOWN. I want to raise the point in order to determinate the question for the future. It is a question never before determined in the history of the House, and I want it determined now.

Mr. SNELL. It seems to me that the gentleman is bringing in a lot of irrelevant matter if he wants to hold strictly to the point of order.

Mr. McKEOWN. I am addressing the Chair on that question, and I am trying to argue it as a lawyer as best I can. I am glad to have the gentleman's suggestion.

The SPEAKER. The Chair quite agrees with the gentleman as to the power of the House. All the Chair cares to hear from the gentleman is as to the power of the committee to report another bill covering the same subject matter.

Mr. McKEOWN. Mr. Speaker, upon that question we have to arrive at it by analysis. If I state the rule incorrectly, the Speaker is familiar enough with the rules of the House to know it. The committee is governed in its deliberations and considerations by the rules of the House. Among those is the rule that the committee can not reconsider an action taken in the committee upon the consideration of a bill without the consent of the House. I do not know whether the Speaker agrees with me, but that is the rule under Jefferson's Manual, which is the rule of the House.

The SPEAKER. Does the gentleman contend that the reporting of House bill 9971 was a reconsideration of its action in reporting 9108?

Mr. McKEOWN. Yes, sir; for the reason that it is the same legislative purpose; is the same legislative object, upon the same legislative subject and under the same legislative title, a stronger case than the case I read from the English Parliament. Furthermore, the rule of the House is that if a bill is rejected it can not be reconsidered at the same session. The rule of the House being so, then it naturally follows that under the rule of the House a bill having been passed at a session will not consider another bill of similar purpose, of similar legislative intent, upon the same legislative subject at that session of Congress. Now, the committee is bound by the same rules of the House, having considered this bill, 9108, having reported it into the House, and having become the property of the House, it was not within its power or jurisdiction at this session of Congress again to take up the same identical legislation or purpose and object for the same subject with a similar bill with the exception of one paragraph. Now, if the bill 9108, to illustrate, should have been passed by the Senate, and the bill 9978, a subsequent bill, had been passed by the House, is there any doubt in the Speaker's mind that they could call up the Senate bill and substitute it and lay the House bill upon the table? If they could, I want to read the precedents upon that question to the House. I want to apologize to the Speaker for taking so much time. It is a most important question, in my judgment, one that will affect the entire procedure and the welfare and save confusion in future years to Members sitting here in this deliberative body. I appreciate the value of time, but I want to call attention to another rule which I desire to read from. In the British Parliament bills are introduced from the floor, as the Speaker knows, and a similar practice used to be in the House and the practice obtains now in the Senate of the United States. Here is a case of a Member offering a bill and it was received at once:

Though any Member having obtained leave of the House to prepare and bring in a bill on any subject might take days, weeks, or months for the purpose, he could not when once he had brought up such a bill, and the House had received it and read it, make any alteration whatever in it. It was no longer his property any more than that of any other individual Member, and could not be altered by anyone. The House alone could then deal with it.

The decision of the Speaker in that case was to the effect that the bill could not be considered or changed, and therefore I contend here that they could not change this bill.

Now, hurrying on on this proposition, Mr. Speaker, this question was discussed by Speaker Cannon on May 9, 1910. In this case the question was raised over an appropriation to purchase buildings for embassies in foreign countries, and the bill had been voted down, and it came up again a second time for consideration. The Speaker—I will not take the time of the House to read the entire colloquy, but I will just read several paragraphs of the decision:

The SPEAKER. The Chair has listened with attention and with much interest to the presentation of this point of order and to its discussion. Touching Jefferson's Manual, the Chair does not agree with the criticism made by a committee of the House, if the Chair recollects, in 1880, that it is substantially antiquated and of but little authority. The observation of the Chair is that Jefferson's Manual is in constant use by the House and is adopted by one of the rules of the House. The Chair is satisfied that the clause of Jefferson's Manual which is cited here, as a general proposition, lays down a very salutary and useful principle:

"A bill once rejected, another of the same substance can not be brought in again at the same session."

Now, the object of the rule in the Manual, touching this as a matter of practice, was that there should be a finality when the House had once considered a proposition, that a similar proposition, in substance the same, should not be in order during the same session; and yet there comes the question of fact as to whether it is in substance the same.

Jefferson's Manual, in dealing with the subject of inconsistent amendments, lays down the general principle that were the Chair permitted to draw questions of consistence within the vortex of order he might usurp a negative on important modifications and suppress, instead of subserving, the legislative will.

Jefferson's Manual, as it is modified by the rules of the House—and they have all to be construed together and in the light of precedents that are made and the practice of the House under other rules—may

apparently from time to time lead to conflicting decisions. In two instances it seems to be required that the Chair shall enter into the question of substance or consistency. Take the rule of the House that prohibits legislation on a general appropriation bill—a salutary rule in the opinion of the Chair and in the opinion of the House, because it has rested in the rules of the House for more than a generation.

Now, who shall determine in that case under that rule as to whether an amendment or a proposition contains legislation? In the practice, which seems necessary under the rule, the Chairman of the Committee of the Whole decides, overruling or sustaining the point of order as the case may be, always, of course, subject to appeal and approval or reversal. In practice, therefore, the Chair constantly in Committee of the Whole determines whether the proposition is legislation such as is prohibited by the rules. Again, one of the rules of the House provides that in a certain case a Senate bill "substantially the same" as a House bill may be substituted for the House bill. The Chair in such case practically determines whether the Senate bill is substantially the same, for under the conditions of such bills it would practically be impossible for the House to determine the question. Therefore there are these two exceptions to the principle that the Chair should not decide questions as to substance or consistency.

It has been held that if an amendment proposed to a bill under consideration be changed one word, it will be a different proposition, although it may be substantially the same. The Chair recollects that this is the practice which is uniform, so far as amendments are concerned, both in Committee of the Whole and in the House.

The Chair cites the rule touching amendments proposing legislation on appropriation bills, the practice of the House touching similar but not identical amendments, and the substitution from the Speaker's table of a Senate bill "substantially the same" as the House bill, in order to show that under this code of rules and the practice of the House no hard-and-fast rule can be observed by the Speaker, although the general principle that he should not decide questions as to substance and consistency is undoubtedly sound.

The SPEAKER. If the gentleman will pardon the Chair, the Chair is very familiar with the precedents; but what the Chair wants to know is not on the question of whether the House can reconsider, once having acted, but on the question of reconsideration by the committee. Let the Chair ask the gentleman if the gentleman questions the power of a committee to have reported another bill in precisely the same language?

Mr. McKEOWN. Yes, sir; I do.

The SPEAKER. Will the gentleman let the Chair ask him this question?

Mr. McKEOWN. Yes.

The SPEAKER. Does the gentleman consider the reporting of a bill in precisely the same language as that previously reported as the same action?

Mr. McKEOWN. If it is the same subject matter in substance, it is a reconsideration. If the second bill is a reconsideration of the substance of the first bill, it is the same. If it is the same bill identically, then we would have no question in determining whether they had any authority to reconsider. I have already stated that they would not have; but if the bill in substance is the same, then the same rule applies as if it were the same bill. I want to call the Speaker's attention to some authorities on that point.

Mr. DENISON. Mr. Speaker, will the gentleman yield there for a question?

Mr. McKEOWN. Yes; but let the gentleman wait until I answer the Speaker's question.

Mr. DENISON. Suppose the House passes a bill and the Senate passes an identical bill, and the Senate bill is messaged over and referred to the House committee. Can the House committee report the Senate bill out?

Mr. McKEOWN. Under the rule they can.

Mr. DENISON. It is the same.

Mr. McKEOWN. No; that is not covered by the rule at all.

Mr. DENISON. On the same subject, in the same language?

Mr. McKEOWN. That does not follow. The case mentioned is covered by another rule. I am talking about the origination of legislation.

Now, Mr. Speaker, I read you on the question of the committee's rights and power.

Mr. CRAMTON. Mr. Speaker, will the gentleman yield?

Mr. McKEOWN. Yes.

Mr. CRAMTON. Has the gentleman considered this phase of the question? As the gentleman said in the beginning of his remarks, the committee is the creature of the House, and this bill having been sent to the committee on the 3d of March, how can you question the authority of the committee to consider that which has been sent to it?

Mr. McKEOWN. If the House did not reconsider the bill, that is a matter of mere convenience to the Member who introduces the bill.

Mr. CRAMTON. It is the action of the House, however.

Mr. McKEOWN. I wish to present these authorities as to the power of committees. Now, these committees, in the first place, can not sit without the authority of the House. Under section 404 of Jefferson's Manual—

The committee have full power over the bill or other paper committed to them, except that they can not change the title or subject.

On that I want to read as to their right to reconsider. I want to call the attention of the Chair to volume 5 of Hinds' Precedents, at page 5651. It says:

After a committee has reported a matter it is too late to reconsider the vote by which it was referred.

And under section 802—

No bill, petition, memorial, or resolution referred to a committee, or reported therefrom for printing and recommitment, shall be brought back to the House on a motion to reconsider.

There is a precedent to the effect that no committee can reconsider its report. I will not make further delay on this matter. Other Members may desire to be heard. I have that authority here in Hinds' Precedents, and also in Jefferson's Manual, to the effect that a committee of the House may not reconsider a vote or action in the committee. They can not change the title. They can not change the subject matter referred to them by the House. That is well settled in the precedents. If they can not do that, my contention is that if the subject matter is referred to them and they have reported out on that subject matter, it follows in sequence to the old rule that the report of the committee discharges the committee from the further consideration of that subject.

In conclusion, Mr. Speaker, I desire simply to call your attention to the importance of this matter, which has never been decided by the House or the Speaker, and it goes to this extent: If this rule prevails, as is done in this case, here is what it will lead to, Mr. Speaker. If committees can go out and reconsider and report any bills, you would have a dozen bills in here reported out on the same subject or of similar substance of legislation upon the same subject. You will increase the expenses of printing; and if it can be done, then the House can never know which bill upon an important subject is to be brought up for the consideration of the House.

You have two bills here now. How can any Member of the House of Representatives, how can any citizen of the United States, know what bill will be brought up for consideration before the House? Suppose there were a dozen bills. They could go and bring in a dozen bills and have a dozen bills on the calendar. Think of the confusion that would reign, because no Member could know what bill would be called up for the consideration of the House.

I call it to the attention of the Speaker at this time because I think it is not within the province of the committee to so report bills. I want to quote, in conclusion, the language of Mr. Onslow, who was a great speaker in the House of Commons, where he said:

It was a maxim he had often heard when he was a young man from old and experienced members that nothing tended more to throw power into the hands of administration and those who acted with the majority of the House of Commons than a neglect or departure from the rules of proceeding; that these forms as instituted by our ancestors operated as a check and control on the actions of the majority, and that they were in many instances a shelter and protection to the minority against the attempts of power.

Mr. LEHLBACH. Mr. Speaker, I wish to address myself very briefly to this subject. There is absolutely no question of reconsideration of action by a committee of the House. Committees are created as the agencies of the House, and they have jurisdiction over subject matters, but the House does not refer to committees subject matters, but refers to committees specific bills and resolutions. In accordance with that practice the House referred a radio bill, H. R. 9108, to the Committee on the Merchant Marine and Fisheries. The committee examined the bill and reported it with the recommendation that the bill be passed. After the committee took that action the House referred to it a similar bill, H. R. 9971. The committee, pursuant to its duty and under the mandate of the House, reported that bill out, and recommended that the bill do pass. It recommended that either of those bills do pass, just as it has recommended that a series of bills be passed that are now on the calendar.

The committee in each instance instructed the chairman to take such parliamentary steps as might be necessary to secure consideration. It has done that with reference to every bill reported and on the calendar. In addition to that the committee, after having reported H. R. 9971, which was referred to it by the House with instructions to examine and report

thereon, specifically directed the chairman of the committee to call it up on this Calendar Wednesday. And that is all there is to the whole subject.

Mr. McKEOWN. Mr. Speaker, I would like to read this authority:

When a vote is once passed in a committee, it can not be altered but by the House, their vote being binding on themselves.

This provision of the parliamentary law has been held to prevent the use of the motion to reconsider in Committee of the Whole and the practice seems to have inclined against the use of the motion in a standing or select committee, but there is a precedent which authorizes the use of the motion, and on June 1, 1922, the Committee on Rules rescinded previous action taken by the commmittee authorizing a report.

That is the rule as set out in Jefferson's Manual.

The SPEAKER. The Chair is prepared to rule. The Chair has followed with interest the ingenious argument of the gentleman from Oklahoma, which was well thought out, carefully prepared, and well delivered, but the Chair finds himself quite unable to follow the logic of the gentleman from Oklahoma in this case.

What are the facts? In the mind of the Chair, they are extremely simple. On February 27, 1926, Mr. SCOTT, chairman of the Committee on the Merchant Marine and Fisheries, reported House bill 9108, a bill for the regulation of radio communications, and for other purposes. Subsequently, on the 3d of March, Mr. WHITE of Maine introduced a bill which was referred to the Committee on the Merchant Marine and Fisheries, and reported to the calendar on March 5, 1926. That bill differed in some number of details from House bill 9971. In the judgment of the Chair, the argument advanced by the gentleman from Oklahoma could only hold in one of two cases, either that the Committee on the Merchant Marine and Fisheries was a select committee or that the action taken by the committee was an actual reconsideration of the action taken on House bill 9108. Of course, the Committee on the Merchant Marine and Fisheries is a standing committee. There is some reason for the rule that where a select committee is appointed for a certain purpose it loses jurisdiction entirely over the subject matter after it reports a certain bill because it is automatically dissolved, but there can be no question that no rights are taken away from any standing committee as to its jurisdiction by the reporting or nonreporting of any particular bill.

It is plain in the mind of the Chair that the action taken with regard to House bill 9971 was in no manner a reconsideration of the action taken on House bill 9108. Though it differs in detail it is just as much within the jurisdiction of the committee as was House bill 9108. In House bill 9971 section 4 of House bill 9108 does not appear, and besides there are other amendments; but the Chair thinks the bill is very greatly altered by the elimination of section 4, which, in the opinion of the Chair—although this is a matter that it is not necessary for the Chair to decide here—is a matter probably not within the jurisdiction of the Committee on the Merchant Marine and Fisheries but of another committee. However, the fact is, and it is undenied, that the House bill which the chairman of the committe has just called up for consideration is a different proposition from a bill which the Committee on the Merchant Marine and Fisheries previously reported, and there is no question in the world but that on Calendar Wednesday it is within the province of any committee to call up any bill reported by it.

The Chair thinks there is no question of the right of the gentleman from Michigan to call up House bill 9971 and to consider it in the House under the rules applying to Calendar Wednesday. The Chair, therefore, overrules the point of order.

Mr. LAGUARDIA. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. LAGUARDIA. How does the Committee on Merchant Marine and Fisheries acquire jurisdiction over radio matters?

The SPEAKER. The Chair said that as obiter dicta, and that he doubted whether they had jurisdiction to report on that matter.

Mr. LAGUARDIA. There is nothing in the rules which has given any committee exclusive jurisdiction over that subject matter.

The SPEAKER. The Committee on Merchant Marine and Fisheries has general jurisdiction over radio matters; there is no question about that, but the question as to whether they had jurisdiction over section 4 is not to be considered in this case, because section 4 is out of the bill.

Mr. GARRETT of Tennessee. Mr. Speaker, in view of the reference which the Speaker made—and which he has indicated as obiter dicta—to section 4 of the bill first reported I do not understand that the fact that the committee might not have had jurisdiction originally over the subject would have made that bill subject to a point of order because they happened to bring it into the House.

The SPEAKER. No; the Chair has not said that. The Chair merely referred to that as illustrating a substantial difference between the present bill and the bill originally reported.

Mr. DAVIS. Mr. Speaker, in view of the suggestion made by the Chair that he thought section 4 would not be under the jurisdiction of the committee, I do not want the statement to pass without stating that at the proper time I intend to offer that section as an amendment to the bill, and I believe I can satisfy the presiding officer at the time that it is in order and is within the jurisdiction of this committee. The same section was reported out by the same committee in the last Congress and remained on the calendar of the House for months without question. It was reported again at this session and no question as to the committee's jurisdiction was raised until within the past few days. I know the suggestion is made by the last committee report that the committee did not have jurisdiction, but I insist that suggestion is absolutely unfounded and that section 4 does not even undertake to modify or change the present patent law. It is upon that idea that the suggestion is made that this committee has not jurisdiction, but I think I can substantiate my proposition by several decisions of the Supreme Court of the United States which I shall read at the proper time.

The SPEAKER. The Chair wants it distinctly understood that the present occupant of the chair has not decided that question, and what he has suggested is in no sense binding upon the gentleman who will occupy the chair during the consideration of this bill.

Mr. DAVIS. I assume the suggestion of the Chair was a prima facie statement made upon the statement contained in the report.

The SPEAKER. The Chair did not have that in mind. It was simply a suggestion that this bill, by the exclusion of that section, was quite a different one from the original bill reported.

Mr. McKEOWN. Mr. Speaker, I have such great respect for the ability as a parliamentarian of the present occupant of the chair that I desire no appeal from the decision.

The SPEAKER. The Chair thanks the gentleman. This bill is on the Union Calendar——

Mr. GARRETT of Tennessee. Mr. Speaker, before the House, as I understand it, would go automatically into Committee of the Whole House on the state of the Union, I want to ask the gentleman what his disposition is about general debate on the bill—to follow the rule or to extend the time for general debate? Of course, the time could only be extended by unanimous consent. I had an impression, I will say to the gentleman, that perhaps there might be an agreement—and bear in mind it is only an impression—to extend general debate a little longer than two hours.

Mr. SCOTT. It is quite evident from what has happened now, having consumed 1 hour and 10 minutes without even reaching the consideration of the bill, that an extension of general debate would serve no useful purpose. Personally, I have no objection to a full discussing of this bill, but I am anxious not to usurp the time of the House and prevent the early consideration of a lot of other important measures, such as the reclassification and the retirement bills. I do not want to consume the time of the House unjustly or improperly. For that reason I think we ought to adhere to the rules of the House in the consideration of this bill. May I say in addition, in reply to the gentleman from Tennessee, I shall feel very much inclined to be liberal under the five-minute rule as long as the Members confine their discussion to the bill, and that will be my attitude when we reach consideration under the five-minute rule.

Mr. CONNALLY of Texas. Will the gentleman yield?

Mr. SCOTT. Yes.

Mr. CONNALLY of Texas. The gentleman says he will be, but what about everybody else on that side?

Mr. SCOTT. Well, I assume the gentleman from Texas has observed the procedure heretofore. If the chairman in charge of a bill is inclined to be lenient, the House does not usually step in and reprimand him for his leniency.

Mr. CONNALLY of Texas. I am talking about consideration under the five-minute rule, when anybody can object.

Mr. SCOTT. I am talking about that, too.

Mr. CONNALLY of Texas. Anyone can object then.

Mr. SCOTT. I know they can; but the attitude of the chairman is usually accepted by the membership of the House very kindly, and I think very graciously.

Mr. CONNALLY of Texas. In the case of the gentleman I am sure it will go a very long way toward quieting any opposition.

Mr. CELLER. Will the gentleman yield?

Mr. SCOTT. Yes.

Mr. CELLER. Does not the gentleman think the bill is important enough to permit more than two hours of general debate?

Mr. SCOTT. I think the bill is very important, but I also think the House is familiar with the subject and that an hour on each side will be sufficient. We have two days coming along consecutively in which to consider this bill.

Mr. LAZARO rose.

Mr. BEGG. Mr. Speaker, I demand the regular order.

Mr. SCOTT. Will the gentleman withhold his demand in order that I may yield to the ranking minority member of the committee?

Mr. BEGG. Yes.

Mr. LAZARO. Will the gentleman yield for a question?

Mr. SCOTT. Yes.

Mr. LAZARO. I want to say to the chairman that many Members on this side feel we ought to be a little more liberal in general debate and think if we could extend the time we would get along faster under the five-minute rule.

Mr. SCOTT. Permit me to say to my friend that the same situation prevails on this side, but I have indicated to gentlemen that I would be liberal and would ask the House to be liberal under the five-minute rule. I do not think the House gets any substantial benefit where a half dozen Members attempt to discuss the bill in two, three, or five minutes, and that is what always happens when there is an extended general debate. I do not think the House is particularly edified by confining a man to that length of time under general debate. I think much better results can be obtained by the membership directing their remarks to a particular section or a particular feature of the bill under the five-minute rule.

Mr. LAZARO. It is the gentleman's intention to be liberal under the five-minute rule?

Mr. SCOTT. Yes; I have so indicated.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. SCOTT. Yes.

Mr. LAGUARDIA. I understand the committee has had a great deal of trouble on this bill and has devoted a great deal of time to it. Some of us do not want to speak, but we at least want to get intelligent information on the bill. Can we get both sides of the question in two hours?

Mr. LEHLBACH. Certainly.

Mr. SCOTT. If the gentleman is unable in two hours to form an intelligent opinion, then I have overjudged the gentleman's mental capacity.

Mr. LAGUARDIA. But the committee has spent more than two hours upon it.

Mr. SCOTT. Yes; we have spent several years upon it.

Mr. LAGUARDIA. And you have not agreed upon it yet.

Mr. SCOTT. Yes; we have agreed.

Mr. LAGUARDIA. There is a minority report.

Mr. SCOTT. You can not stop the filing of a minority report. It is signed by only one man.

Mr. LAGUARDIA. But that shows all of you have not agreed upon it.

Mr. BEGG. Mr. Speaker, I demand the regular order.

Mr. McLAUGHLIN of Michigan. Will the gentleman withhold that a moment?

Mr. BEGG. Yes.

THE LATE REPRESENTATIVE ARTHUR B. WILLIAMS

Mr. McLAUGHLIN of Michigan. Mr. Speaker, I ask unanimous consent that Sunday, April 25, 1926, be set aside for memorial services upon the life, character, and public service of our late colleague, ARTHUR B. WILLIAMS, formerly a Member from the State of Michigan.

The SPEAKER. The gentleman from Michigan asks unanimous consent that Sunday, April 25, 1926, be set aside for memorial services upon the life, character, and public service of the late ARTHUR B. WILLIAMS. Is there objection?

There was no objection.

RADIO COMMUNICATION

The SPEAKER. This bill is on the Union Calendar. Automatically the House resolves itself into the Committee of the Whole House on the state of the Union, and I will ask the gentleman from Illinois [Mr. MADDEN] to take the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union with Mr. MADDEN in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of a bill of which the Clerk will read the title.

The Clerk read the title, as follows:

A bill (H. R. 9971) for the regulation of radio communications, and for other purposes.

The CHAIRMAN. The Chair understands that the committee is proceeding under the usual rules of debate on Calendar Wednesday, which means one hour under the control of the gentleman from Michigan [Mr. SCOTT] and one hour under the control of the gentleman from Louisiana [Mr. LAZARO].

Mr. SCOTT. Mr. Chairman, I yield to the gentleman from Maine [Mr. WHITE] 30 minutes.

Mr. WHITE of Maine. Mr. Chairman, the necessity for radio legislation has in recent years been often called to the attention of your committee by the Department of Commerce; consideration of the problem and action with respect to it have been urged on the Congress by two Chief Executives. The great listening public and representatives of those directly connected with the radio industry have urged upon us the need for congressional action. The most recent and authoritative utterance by the radio world was given by the Fourth National Radio Conference, held in Washington November, 1925. The conference was attended by about 500, including representatives of the listeners of broadcasting stations, amateurs, manufacturers, engineering societies, Government departments, and many others. It formally expressed the opinion that existing Federal statutes are inadequate to permit proper administration of existing radio activities, and that the public interest required that legislation be enacted. It followed these general recommendations with detailed suggestions. The pending bill is your committee's response to these requests; it is our contribution to the solution of the difficulties which are so generally recognized.

Whatever its defects may be, the bill is approved generally in form and substance by many whose interest in and knowledge of the subject should command respect for their opinions. It comes with the approval of the Department of Commerce, charged for 14 years with the administration of existing radio law; it bears the indorsement of the amateurs of the country, speaking through their national organization, the American Radio Relay Association; it is commended by the National Association of Broadcasters, by the United States Shipping Board, the Director of Naval Communications, the Coast Guard of the Treasury, the Signal Corps of the Army, and other interests and individuals. It conforms in such large measure to the specific requests and recommendations of the recent radio conference as to justify the assertion that it has the approval of that body. We submit that those Members of the House to whom this is a new subject are justified in giving large credit to those informed and definite expressions of approval of the bill. Because of them we ask you to consider the bill with sympathetic mind.

The inadequacy of existing law, the pressing need for legislation, as to which there is complete unanimity of testimony, is attributable to the extraordinary developments in radio which have come within the recent years. Marconi discovered in 1895 a system by which the distance over which electric waves could be transmitted and detected was greatly increased. The application of this system to practical purposes came slowly. In 1912 the principal use of radio was for communication between ships and between ships and shore. In this year, 1912, the Marconi Co. of America was organized. It operated at that time 60 shore stations for ship communication, including one capable of transmitting to ships 2,000 miles distant. There were approximately 600 ships upon the seas equipped for radio communication. Transoceanic communication was in its swaddling clothes. There were no other practical uses of radio.

It was in this state of the art that the existing law of 1912 was enacted. Congress did not attempt at that time to regulate or to give power to regulate unknown and nonexistent means or methods of communication. It dealt only with known factors. The legislation was appropriate to that day. Since 1912 the progress of the art and of the industry has been amazing. Wave lengths unknown then have become of common use. Power undreamed of is to-day projecting electric energy across continents and over seas. There has come the transmission of writing, of pictures, compass reports, beacon signals, radio telephony, and radio broadcasting. Upon the oceans of the world more than 12,000 ships are to-day warned of storm and stress of weather, are given their bearings and directions, send out their calls in time of danger. In the United States alone there are in operation 15,111 amateur stations, 1,901 ship stations, 553 land stations, 536 broadcasting stations. For these

broadcasting stations there are now available but 89 different wave lengths, or an average of over six stations to each wave length. The Government's task is to regulate and control a situation of such complexity under a statute framed under the conditions and with the knowledge existing in 1912. It has been held by the Court of Appeals of the District of Columbia that it is mandatory upon the Secretary of Commerce under the act of 1912 to issue a license to transmit to every applicant. The problem has been, therefore, how to distribute a limited number of wave lengths among an unlimited number of stations. By various expedients, by division of time, by power limitation, by geographical separation, and by other means of doubtful legal authority the department has sought to solve a difficulty which is inherent in the situation if there is a right in everyone who wishes to transmit to do so.

The congestion in the broadcasting field—and it is this means of communication in which the public is chiefly interested—minimizes the value of all stations. There is inequitable geographical distribution of stations, overlapping of areas served, confusion and intolerable interference and bad as the situation now is it threatens to be worse. There are now on file in the department approximately 425 applications. Add those to the 536 now outstanding and we would have a total of 961, or 11 stations for each wave length. Such a result means the complete breakdown of broadcasting service within the United States. This result is inevitable under existing law. It is universally recognized. Its appreciation is responsible for the widespread interest in radio legislation and for the general hope that Congress will confer the powers necessary to avert the impending calamity.

The radio conference, to which previous reference has been made, in recommending legislation advised that there should be incorporated therein the following principles:

(a) That the administration of radio legislation shall be vested in the Secretary of Commerce, who shall make and enforce rules and regulations necessary to the proper administration of the provisions of such legislation.

(b) Such administration shall be exercised by the Secretary through the officers or employees of the Department of Commerce.

(c) That the doctrine of free speech be held inviolate.

(d) That those engaged in radio broadcasting shall not be required to devote their property to public use and their properties are therefore not public utilities in fact or in law: *Provided, however,* That a license or a permit to engage in radio communication shall be issued only to those who in the opinion of the Secretary of Commerce will render a benefit to the public; or are necessary in the public interest; or are contributing to the development of the art.

(e) That in time of war or other national emergency the President shall have the power to discontinue or commandeer existing stations, with just compensation.

(f) That no monopoly in radio communication shall be permitted.

(g) That the legislation shall contain provisions for due appeal from final decisions of the Secretary of Commerce to the appropriate court.

(h) Except in the case of governmental stations, the Secretary shall be empowered to classify all stations and to fix and assign call letters, wave length, power, location, time of operation, character of emission, and duration of license.

6. It is recommended that call letters shall be recognized as representing a property right and be treated accordingly during the life of the license. The Secretary shall not change call letters, wave length, power, time of operation, nor character of emission except on the application by or consent of the licensee: *Provided, however,* That if in the opinion of the Secretary such changes are required as a public necessity any change or changes may be made.

7. *Provided further,* That the term of a license to operate a broadcasting transmitting station, the character of which is to be defined in the act, shall be not to exceed five years, with the privilege of renewal for like periods: *And provided further,* That the Secretary may suspend or revoke any license for failure to maintain regular operation of a transmitting station without just cause.

(i) No license shall be issued to operate a transmitting station not already operating in radio communication, except mobile or amateur stations, unless prior to the application for such license there shall have been issued by the Secretary of Commerce an erection permit: *Provided further,* That an erection permit to engage in radio communication shall be issued only to those who, in the opinion of the Secretary of Commerce, will render a benefit to the public; or are necessary to the public interest; or are contributing to the development of the art.

(j) Each license to operate a transmitting station in radio communication shall prescribe the responsibility of such station with respect to distress signals, but in any event all licenses shall provide that upon due and proper order from governmental authority such stations shall cease operation until released by the same authority.

(k) That the act should define the following terms, to wit: Commercial stations, broadcasting stations, amateur stations, and experimental stations.

(l) That the Secretary shall have the power to revoke or suspend any license whenever he shall determine that the licensee has violated any of the terms of his license, regulations of the Secretary, Federal radio law, or international treaty.

(m) That in order to insure financial stability to radio enterprises, capital now invested must receive reasonable protection; therefore all stations which contribute to the public interest and benefit shall be given a reasonable length of time to conform to the provisions of the proposed act and the rules and regulations prescribed thereunder.

(n) That rebroadcasting of programs shall be prohibited except with the permission of the originating station.

(o) The Secretary of Commerce shall be empowered to make and enforce such rules and regulations as may be necessary to prevent interference to radio reception emanating from radio sources.

(p) Authority should be provided to prescribe and enforce uniform regulations regarding the use of radio transmitters on ships in territorial waters.

With few exceptions, your committee has adopted in the bill before you the principles thus outlined. I can not in the time available discuss them or the provisions of the bill in any detail.

Let me, however, call attention to some outstanding features of the legislation in which I believe the House and the public will be interested.

At the very outset the bill asserts Federal jurisdiction over all phases of radio communication in so far as such communication constitutes or affects interstate or foreign commerce. This is but declaratory of existing law, but the assertion is advisable and important in that it gives notice to all of the principle and of the congressional purpose to maintain it and to exercise its powers thereunder. There follows the definite grant to the Secretary of Commerce of the powers which experience has demonstrated are necessary for effective and efficient regulation of this means of communication. Some of the powers now exist; all are essential. These powers are hereafter to be exercised under a different principle than has heretofore controlled. We have reached the definite conclusion that the right of all our people to enjoy this means of communication can be preserved only by the repudiation of the idea underlying the 1912 law that anyone who will may transmit and by the assertion in its stead of the doctrine that the right of the public to service is superior to the right of any individual to use the ether. This is the first and the most fundamental difference between the pending bill and present law.

The recent radio conference met this issue squarely. It recognized that in the present state of scientific development there must be a limitation upon the number of broadcasting stations and it recommended that licenses should be issued only to those stations whose operation would render a benefit to the public, are necessary in the public interest, or would contribute to the development of the art. This principle was approved by every witness before your committee. We have written it into the bill. If enacted into law, the broadcasting privilege will not be a right of selfishness. It will rest upon an assurance of public interest to be served. The same rule is asserted with respect to other forms of transmission.

We have sought in other ways to make more certain a proper regard for public as opposed to private right. Under existing law, there is no limitation upon the right of the Secretary to grant licenses for such time as he approves. He might grant a license for 50, a 100 years, or in perpetuity. In the present bill we definitely challenge and curtail this power. We limit the life of every license to five years but with a right of renewal.

In existing law there is no restraint upon the right of a licensee to transfer his license. We here deny this right except with the consent of the Secretary of Commerce. Freedom to barter and sell licenses threatens the principle that only those who will render a public service may enjoy a license. It would make possible the acquisition of many stations by a few or by a single interest. Your committee felt this a possibility to be guarded against.

Existing law gives the Secretary no control over the location of stations. The result has been an unjustifiable grouping of stations within limited areas. There are within 50 miles of Chicago 40 stations, of New York 38, of Philadelphia 22, and of San Francisco 22. Stations so centered detract from the value of each other and interfere with the highest quality of service. In the bill before you the Secretary is given authority in passing upon a license to consider its proposed location and the area to be served thereby, and he is enjoined to effect an equitable geographical distribution of stations over the entire country.

We have given in the measure before you power, not carried in existing law, to revoke licenses for proper causes, and we have made revocation mandatory in particular cases.

The bill now under consideration carries many provisions not in the act of 1912, designed to prevent monopoly in radio communication. All laws of the United States relating to monopolies and agreements in restraint of trade are made applicable in terms to the radio industry and to interstate and foreign communication by radio. The giving of rebates or other preferences by common carriers is prohibited by the Interstate Commerce Commission acts, which apply to common carriers engaged in transmission by radio. The provisions of the Clayton Antitrust Act applies to radio companies as well as to others. Unfair practices by radio companies as forbidden by the Federal Trade Commission act to the same extent that all others are forbidden to engage therein.

In addition to the foregoing general provision, the Secretary is directed to refuse a license to any applicant found guilty by any Federal court of monopolizing or attempting to monopolize radio communication after this act takes effect. The Secretary is further authorized in granting licenses for foreign communication to impose such terms and conditions as may be imposed upon cable companies under the cable landing license act.

In the event any licensee is found guilty of a violation of our antitrust statutes by a court, the court is authorized, in addition to other penalties, to decree a revocation of the license. Violation of the provisions of the interstate commerce acts forbidding unjust and unreasonable charges or regulations or practices is made a ground for revocation of a license by the Secretary of Commerce.

The bill contains also a prohibition against radio companies acquiring ownership or control of wire companies, or of wire companies acquiring control of radio companies, engaged in foreign communication if the purpose or effect thereof is to stifle competition between these two means of communication. We hope by this provision to preserve competitive conditions between cable and radio in transoceanic communication.

We are here dealing with a new means of communication. It is fighting to develop its usefulness in a field in which telephones, telegraphs, and cables are now entrenched. We should exercise every care in the public interest, but there exists a reasonable doubt whether we are justified in applying to this industry different and more drastic rules than the other forms of communication are subjected to.

It is certain that we should not suffer prejudice to jeopardize the further development of this art. Your committee feels that in the antimonopoly provision of general law and of this bill we have gone to the extent public safety requires. We believe that to go further would be both unjust and unwise. Laws, narrow, restrictive, destructive of a new industry serve no public good. We should avoid them.

In various sections of the bill we have given recognition to the rights of the Government. By express terms we authorize the President in time of war or of threat of war or of public peril or disaster or other national emergency or to preserve the neutrality of the United States to close all stations or to take them over for operation by any department of the Government under rules prescribed by him. We have also provided that other departments of the Government should not be subjected to the authority of the Secretary of Commerce. They need not be licensed by the Department of Commerce as all private stations must be; their operators are not required to be licensed; the Secretary of Commerce has no control over their location, the power they shall use, the time they shall operate. They are each independent in all these respects. They are subjected to the jurisdiction of the Department of Commerce only to the extent that when transmitting other than communications relating to Government business they shall conform to regulations promulgated by the Department of Commerce designed to prevent interference.

The bill contains various provisions designed to protect ship communications, and especially signals of distress, from interference. Radio is the sole means of communication for the ship at sea. As such and in the interest of safety of life we are required to safeguard the transmission of communication from and to vessels. The committee feels that it has met this solemn obligation.

We have provided checks upon the arbitrary and improper exercise of power by a single man. In the first instance broad and somewhat unusual authority is vested in the Secretary of Commerce. But this is not power to be exercised at his will. We have laid down the rule of public interest to guide and restrain him in his decisions. We have in addition set up a commission, bipartisan in character, regional in representation, to which every decision of the Secretary may be appealed and we have provided an appeal to the Court of Appeals of the District from decisions of Secretary or commission in major matters.

Your committee has no illusions concerning this bill. We have given too long and too thoughtful consideration to this subject to permit the belief in our own minds that this is the last word in radio legislation. We do assert that the difficulties which confront us, the congestion which exists, the unwarranted grouping of stations, the complaints arising from the distribution of wave lengths and from the use of power are inevitable under existing law, which gives no powers commensurate with the problem. We give you our confident assurance that the pending measure confers authority and imposes duties which should bring great public good.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. WHITE of Maine. Yes.

Mr. LAGUARDIA. The gentleman stated the recommendations, among which was a guaranty of free speech over the radio. What provision does the bill make to carry that out?

Mr. WHITE of Maine. It does not touch that matter specifically. Personally, I felt that we could go no further than the Federal Constitution goes in that respect. The pending bill gives the Secretary no power of interfering with freedom of speech in any degree.

Mr. LAGUARDIA. It is the belief of the gentleman and the intent of Congress in passing this bill not to give the Secretary any power whatever in that respect in considering a license or the revocation of a license.

Mr. WHITE of Maine. No power at all.

Mr. BLANTON. Will the gentleman yield?

Mr. WHITE of Maine. If I have time.

Mr. BLANTON. What is the committee going to do as to the recommendations in regard to political attacks over the radio and regulating or controlling political attacks of one party upon another or one individual upon another?

Mr. WHITE of Maine. It does not deal with that specifically in this bill. I speak only for myself when I say that it seemed to me that the common law is ample to protect any individual. I believe in many States this is supplemented by statutory provisions.

Mr. BLANTON. Are they?

Mr. WHITE of Maine. That is my personal view.

Mr. BLANTON. If the gentleman will permit, in many States under the law you can not slander a man by a verbal attack; no matter what you say, you can not slander him. He can only hold you responsible when you say something in writing derogatory about him. Speeches over the radio are not signed attacks, they are in the air. They can go fifteen hundred miles over the lines of many States. Surely the rights of individuals and business firms and of politieal parties ought to be protected in such measures as this. I was hopeful that the committee would make some recommendations along that line.

Mr. WHITE of Maine. That is not included in the bill and no suggestion of that character was made to the committee.

Mr. LAGUARDIA. The civil rights are still in existence.

Mr. WHITE of Maine. In thinking about the matter myself—I may be wrong—I believe that the general principles of law cover the situation that the gentleman has in mind.

Mr. BLANTON. I doubt it.

Mr. WOODRUFF. Could the Congress take action in regulating what a person might say over the radio without abridging the right of free speech?

Mr. WHITE of Maine. You get very near censorship when you undertake to do that.

Mr. DAVIS. Mr. Chairman, I yield to myself 30 minutes. Mr. Chairman and members of the committee, I wish to make public acknowledgment of my appreciation of the fact that the majority leader and the minority leader submitted a request, which was unanimously granted by the membership of the House, to defer the consideration of this bill from last Tuesday until to-day because of my illness. I appreciate that courtesy especially because it was done without any request or even a suggestion on my part. And while I am here to-day, I am just here, having been grappling for a week with a case of the grippe. However, I ask you gentlemen to kindly bear with me and my voice while I undertake to state my views upon this bill in some particulars.

First, I approve the major portions of the bill under consideration. I readily concede and wish to impress the vital importance of additional radio legislation. I think it is particularly important from the public standpoint and from the standpoint of the future, even more than it applies at the present

time. As I have taken occasion to state in the minority views upon the bill which I filed, and which I trust those of you have not done so and are interested in the subject will find time to read between now and to-morrow, I shall offer some amendments in an effort to carry out those views. I believe this bill should be amended and supplemented. In other words, I say that the time has passed for makeshift and emergency legislation. The time has arrived when we should meet this situation face to face and deal with it as the Congress should. I insist that we do not do that in this bill in its present form. The bill, generally speaking, is all right as far as it goes; but it does not go far enough in several important respects. For instance, there is not any question whatever that one of the most powerful, one of the most effective monopolies in this country is the radio monopoly, a monopoly the capital stock of whose members is quoted on the stock exchanges for $2,500,000,000. We have been dealing with this subject as a committee and the House in part for three Congresses, this being the third Congress to which the Committee on the Merchant Marine and Fisheries has reported a similar bill, and yet this bill is not as effective and has not as strong provisions against monopoly as the bills reported in the last Congress and in the Sixty-seventh Congress.

In order that I may get the picture before you I call your attention to the fact that in the Sixty-seventh Congress there was unanimously reported from this committee on January 16, 1923, H. R. 13773, to amend an act to regulate radio communication, approved August 13, 1912. The report of that committee was drafted for the committee by the distinguished and able gentleman from Maine [Mr. WHITE], who preceded me on the floor, and who has given this subject very great and intelligent consideration. I ask the Clerk to read an extract from the report on that bill.

The Clerk read as follows:

The bill before you is not a comprehensive radio law, but is limited in its scope. There are many phases of the subject which invite study and which in the not distant future may call for legislative action. Your committee has embodied in this bill only such proposals as are vital at this time and as to which the members of the committee are in unanimous agreement. The approaching end of the session and the imperative need for conferring upon the regulatory body the powers authorized by this bill are sufficient reasons for avoiding at this time controversial matters.

* * * * * * *

Apprehension has been expressed, and there is evidence sufficient to raise the question in reasonable minds, that certain companies and interests have been endeavoring to establish a monopoly in wireless communication through control of the manufacture and sale of radio instruments, through contractual arrangements giving exclusive privileges in the transmission and exchange of messages, or through other means. Your committee believes that this subject should be carefully investigated and appropriate action considered at an early date. But the committee was unanimously of the opinion that it was impossible during the life of this Congress to inform itself as to the facts involved, and that it would be unwise in the extreme to propose illy considered legislation on so important a subject. Your committee felt that it ought not to delay presenting to the House for action the important proposals contained in this bill, with respect to which the Members are in complete harmony. The bill is not, therefore, an antitrust statute. There are included in it, however, several provisions which it is believed will have a restraining influence upon those who otherwise might disregard public right and interest. It is specifically provided in section 2 of the bill that the Secretary of Commerce may refuse a license to any person or corporation which, in his judgment, is monopolizing radio communication. He is authorized with respect to licenses for stations transmitting to foreign countries to impose any terms, conditions, or restrictions which may be imposed with respect to cable-landing licenses under the act of May 27, 1921. We have authorized the Secretary to revoke the license of any person or company which the Interstate Commerce Commission, in the exercise of the authority conferred upon it, finds has made any unjust and unreasonable charge, or has made or prescribed any unjust and unreasonable regulation or practice with respect to the transmission of messages or service.

That bill was unanimously reported, and this report unanimously made over three years ago, expressly admitting that it was an emergency proposition, was not an antitrust bill, and only dealt with the matter in a very general and temporary way, with the assurance that additional legislation would likely be forthcoming. During the consideration of that bill upon the floor Members of the House in debate criticized it because it gave too great and too much unrestrained power to one man, the Secretary of Commerce, because it did not have adequate antimonopoly provisions, and for one or two other reasons, and Members of the House, including myself and including the gentleman from Maine [Mr. WHITE] and others, gave assurances in debate similar to those contained in the committee report. More than three years have passed. Three additional bills have been reported by the same committee; and, as I say, taken all in all, the antimonopoly provisions of the one before you now are not as strong as the one under consideration in the Sixty-seventh Congress, which the House passed, but which died at the other end of the Capitol, nor nearly as strong and effective as those in the bill unanimously reported in the Sixty-eighth Congress.

Twelve days after that bill passed the House in the Sixty-seventh Congress the gentleman from Maine introduced a resolution, which was referred to the Committee on the Merchant Marine and Fisheries, and which was unanimously reported to the House by that committee, and unanimously adopted by the House, directing the Federal Trade Commission to investigate and report to the House and to the committee the facts as they found them with respect to the alleged radio monopoly. It was stated in this House resolution and in the committee report upon it that the purpose of it was to aid the committee and the House to intelligently frame and enact further legislation. The Federal Trade Commission proceeded to conduct an exhaustive investigation. They made a report of some 347 printed pages, in which they set forth the facts showing conclusively that even according to the admitted contracts between certain companies they were not only in a monopoly but were clearly violating the Clayton antitrust law and the Sherman antitrust law.

The resolution adopted by the House did not request them to take any action other than to report the facts, but the Federal Trade Commission upon its own motion filed a complaint against the members of this monopoly. That was filed over two years ago. It is still pending——

Mr. MOORE of Virginia. And with only one member of the Federal Trade Commission dissenting, as noted.

Mr. DAVIS. Yes. That complaint is still pending, but that proceeding can not afford any relief to the public under the provisions of the bill we are considering, because they are not even authorized to refuse a license or to revoke a license of a member of the monopoly until it shall have been convicted thereof upon facts occurring after this bill becomes a law.

And yet this Sixty-seventh Congress bill directly and specifically authorized the Secretary of Commerce upon his own responsibility to refuse a radio license to any person or corporation, who in his opinion was directly or indirectly monopolizing or attempting to monopolize radio communication or any phase of the radio industry. That provision has been radically weakened. It has had the teeth pulled out of it as modified in the bill which you now have under consideration, because it provides that the license shall be refused in case of a monopoly only when a Federal court authorized to act shall have specifically determined hereafter, and upon facts occurring after the passage of the bill, that the applicant is violating those antitrust laws. How long does it take those cases to be finally adjudicated by the courts? Here the Federal Trade Commission complaint was filed against the radio monopoly over two years ago, and yet they have not gotten any further than overruling some motions of the respondents.

Mr. CELLER. If the gentleman will yield, is there not also considerably more delay because they not only have to be adjudicated in the courts but declared a monopoly by the district court, and they have to go through the appellate courts, the circuit court of appeals, until finally it reaches the Supreme Court of the land and probably will take some five or six years to determine?

Mr. DAVIS. That is undoubtedly true. It is a matter in the dim distant future so far as any of these provisions in this bill are effective or will be effective, if any salutary relief ever results therefrom.

Mr. JOHNSON of Texas. Will the gentleman yield?

Mr. DAVIS. I will.

Mr. JOHNSON of Texas. Has there been any action taken relative to the findings of the Federal Trade Commission in the way of prosecution?

Mr. DAVIS. No; absolutely not. It has been absolutely ignored so far as the Department of Justice is concerned. I have not time to read extensively about the findings of the Federal Trade Commission, but at the time they filed this complaint they issued a statement in which they said, among other things:

Monopoly in radio apparatus and communication, both domestic and transoceanic, is charged in a complaint issued by the Federal Trade Commission to-day. Efforts to perpetuate the present control beyond the life of existing patents is likewise charged.

Radio Corporation of America, General Electric Co., American Telephone & Telegraph Co., Western Electric Co. (Inc.), Westinghouse

Electric & Manufacturing Co., the International Radio Telegraph Co., United Fruit Co., and Wireless Specialty Apparatus Co. are named as respondents and are alleged to have violated the law against unfair competition in trade to the prejudice of the public.

In the language of the complaint "the respondents have combined and conspired for the purpose and with the effect of restraining competition and creating a monopoly in the manufacture, purchase, and sale in interstate commerce of radio devices and apparatus, and other electrical devices and apparatus, and in domestic and transoceanic radio communication and broadcasting."

To attain the present control alleged, the complaint recites that the respondents (1) acquired collectively patents covering all devices used in all branches of the art of radio and pooled these rights to manufacture, use, and sell radio devices, and then allotted certain of the rights exclusively to certain respondents; (2) granted to the Radio Corporation of America the exclusive right to sell the devices controlled and required the Radio Corporation to restrict its purchases to certain respondents; (3) restricted the competition of certain respondents in the fields occupied by other respondents; (4) attempted to restrict the use of apparatus in the radio art manufactured and sold under patents controlled by the respondents; (5) acquired existing essential equipment for transoceanic communication and refused to supply to others necessary equipment for such communication; and also excluding others from the transoceanic field by preferential contracts.

From the series of contracts referred to in the complaint it appears that the Radio Corporation of America has the right to use and sell under patents of the various respondents which relate to the radio art. It has also given to various respondents the right to manufacture under these patents. Thus there has been combined in the hands of these corporations patents covering the vital improvements in the vacuum tube used in long-distance communications and other important patents or inventions in radio which supplement this central device. Approximately 2,000 patents are involved.

It is further stated that up until 1922 the Radio Corporation had an absolute monopoly in the manufacture of vacuum tubes and for the first nine months of 1923 sold 5,509,487 tubes. During the same period the only other concern having the right to make and sell tubes sold 94,100 tubes.

In the communication field, while the Radio Corporation has some competition in the ship-to-shore communication, it has a practical monopoly in transoceanic service. It controls all the high-power stations in this country except those owned by the United States Government. Agreements of an exclusive character have been entered into with the following countries, or with other concerns in control of the situation in those countries, namely: Norway, Germany, France, Poland, Sweden, Netherlands, South America, Japan, and China. Arrangements have also been made with the land telegraph companies in this country whereby messages will be received at the offices of the Western Union and Postal Telegraph Cos.

A summary of the contracts between the respondents as recited in the complaint is: First, the organization of the Radio Corporation of America in 1919 under the supervision of the General Electric Co., which company received large holdings in the stock of the Radio Corporation for capital supplied and for its service in connection with the acquisition of the American Marconi Co. An agreement entered into between these companies granted to the Radio Corporation an exclusive license to use and sell apparatus under patents of the General Electric Co. until 1945; and the Radio Corporation granted to the General Electric Co. the exclusive right to sell through the Radio Corporation of America only, the corporation agreeing to purchase from the General Electric Co. all radio devices which the General Electric Co. could supply. Subsequently this arrangement was extended to include the Westinghouse Electric & Manufacturing Co., the business of the Radio Corporation being apportioned between the General Electric Co. and the Westinghouse Co., 60 per cent to the General Electric and 40 per cent to the Westinghouse Co.

Then in detail they explain wherein they are monopolizing the entire radio industry. They also show the keystone company of the monopoly to be the Radio Corporation of America, and that the stock of that company is owned by the other members of the monopoly. These companies have all entered into written agreements in which they first pool their interests and then they divide up and allocate to each other the fields of manufacture, of sale, and of service, and agree to keep out of each other's fields, and to do what they can to prevent others from competing with the members of the monopoly in the respective fields which the monopoly has kindly allocated to them.

Mr. BLAND. And there is also a pooling of about 2,000 patents that belong to the various constitutent parts.

Mr. DAVIS. Yes, there is; and I want to say in that connection that the mere cross-licensing of patents such as is done sometimes by different concerns in the same industry such as the automobile industry, may be legal and all right.

Mr. WOODRUFF. And such as was done in the construction of airplanes for service during the war?

Mr. DAVIS. Cross-licensing in and of itself may be all right, it may be desirable, but the extent to which it has been carried in this case is not only unlawful, but absolutely a violation of different United States statutes, and it is in contravention of the rights of all the independent companies and of the public generally, and they are exploiting the public in all of these different fields.

EFFECT OF THE RADIO MONOPOLY

According to the complaint of the Federal Trade Commission, and, as clearly shown by the admitted written contracts between said various parties, copies of which may be found in the appendix to the Federal Trade Commission report, these parties have already firmly established monopolies in the field of manufacture, sale and use of apparatus for wire and wireless telephony, wire and wireless telegraphy, and wireless broadcasting. The more offensive provisions of the contracts are—

(a) Those for the pooling of all patents of all the parties for all wire and wireless telegraph devices, for all wire and wireless telephone devices, as well as for all radio devices of whatsoever kind and for whatsoever use, for a period fixed or arranged to terminate in 1945.

(b) Those giving to different members of the combination a monopoly in one or more of the fields and containing covenants of all the parties to the contract not to compete or aid others to compete in such fields and to prevent such competition by others.

(c) Those providing for a representation of all the members in the purchase of patents by any member; and for the requirement by all the members that employees should assign their inventions and patents to their employer.

The effect of this combination upon the public is in part disclosed by a reference to a few of the many monopolistic features:

The public service system of the Telephone Co. is protected from radio competition.

With relatively unimportant exceptions, the monopoly of manufacturing radio devices is secured to the General Electric and to the Westinghouse Cos.

With relatively unimportant exceptions, the Radio Corporation has no right to manufacture radio devices, and while it has the monopoly, with relatively unimportant exceptions, of using and selling radio devices, it is not allowed to use them in competition with the public service telephone business of the Telephone Co., and the public are thus cut off from the present and future advantages of like radio service. The Radio Corporation has an absolute monopoly in wireless communication between this country and foreign countries, except that radio service between this and a few Central American and West Indies points is reserved to the United Fruit Co., another member of the monopoly.

Even if a prospective broadcaster can procure a license from the Department of Commerce, it is necessary for him to purchase his broadcasting apparatus from the monopoly, and if the monopoly sees proper to sell to him at all he must buy the apparatus and operate same upon such terms and under such conditions as the monopoly dictates.

The inventor and scientist is in the grip of a monopoly which can exclude his inventions and patents from use or sale, excepting at a tremendous disadvantage to him, with corresponding benefit to the monopoly.

Mr. MOORE of Virginia. Will the gentleman yield?

Mr. DAVIS. I will.

Mr. MOORE of Virginia. The gentleman has shown how this bill is a feebler bill than one which was introduced by the committee in the Sixty-seventh Congress.

Mr. DAVIS. Yes.

Mr. MOORE of Virginia. Does not the same comment apply when you compare this bill with the bill which was reported out by the committee of the Senate with House amendments in the last Congress?

Mr. DAVIS. Yes, sir.

Mr. MOORE of Virginia. I notice that the bill reported out in the last Congress had this much-discussed fourth section in it which this committee says was not heard of in this committee until recently?

Mr. DAVIS. Yes. The bill reported out in the Sixty-eighth Congress was considerably stronger against monopoly than the pending bill.

Mr. WHITE of Maine. If the gentleman will yield, I do not think anyone on the committee ever said that section 4 was heard of only recently.

Mr. MOORE of Virginia. Here is the language of the report made by the majority of the committee, speaking of section 4, which is a very important section, which my friend once advocated:

This particular paragraph was offered and inserted in the bill after the public hearings had been completed. No one had an opportunity to appear before the committee in opposition thereto nor was there any discussion of this provision during the hearings. This paragraph was not a part of the original bill H. R. 5589, and H. R. 9108 represents H. R. 5589 with the committee amendments—

And so forth.

Mr. WHITE of Maine. That is true.

Mr. MOORE of Virginia. But what are the implications? It goes on here to say—

It is important to note that H. R. 9108 was reported to the House by this committee the day following its reference to this committee so that no opportunity was afforded the membership of the House to protest the Committee on the Merchant Marine and Fisheries considering this particular section in the bill which related to patent rights and interstate commerce, over which two subjects the Committee on the Merchant Marine and Fisheries has no jurisdiction.

Now, while this committee, as it is now made up, is not identical in its personnel with the committee in the last Congress, it is to a large extent so; and yet we have an implication here that section 4 is practically a new proposition.

Mr. WHITE of Maine. It is a plain statement of facts. It is true.

Mr. DAVIS. It is a statement of only a part of the facts, but, as suggested by the gentleman from Virginia [Mr. MOORE], the bill that was unanimously reported to this House in the Sixty-eighth Congress did have section 4 in it, and it remained on the calendar of this House for months without anybody making a question about it, and the bill that was reported first in the present Congress had section 4 in it, and immediately after it was reported, without any vote against that section in the committee, representatives of the Radio Corporation, the chief member of this monopoly, got busy. One of their representatives came to me, complaining of that provision, and I know he went to others; and the result was that within a few days after the bill was reported out with that provision in it a new bill was introduced without that section, and the next day after it was introduced and referred to the committee, the committee met, primarily upon another bill, and reported the last bill out without that provision.

And it is stated in the last committee report that nobody—presumably referring to the radio monopoly, because nobody could object to an antimonopoly provision except a member or a prospective member of a monopoly—was given an opportunity to appear before the committee and protest against the provision before it was put in there. No; that is true, so far as this particular provision at that particular time is concerned. But that provision, after it had been put in and reported to the House for the protection of the public against this monoply, was taken out, without the public having an opportunity to be heard against its deletion. Is a monopoly so sacred that no provisions can be adopted without calling in the monopoly and obtaining their consent to adopt amendments to protect the public interest.

Mr. O'CONNELL of Rhode Island. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. Yes.

Mr. O'CONNELL of Rhode Island. And this is a fact, that even the representatives of the radio interests did not object to that part of section 4 which refers to price fixing, but only the restriction of the use of tubes and apparatus, and when the section was taken out the price-fixing section was taken out as well as the other portion of it?

Mr. DAVIS. That is true.

Mr. BANKHEAD. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. Yes.

Mr. BANKHEAD. The gentleman has served notice that he proposes to offer several amendments to this bill. What amendment has he in mind to cure the defects of the proposed bill on this section?

Mr. DAVIS. I will say to the gentleman from Alabama that I have several. And I want to state this, that whatever amendments are not offered by me to-day I intend to insert in the RECORD in order that they may be read before the bill is reached for amendment to-morrow by those who are interested.

Now, Mr. Chairman, I just want to submit this: That if the interests opposed to antimonopoly provisions in this bill are strong enough now to prevent the insertion of provisions with teeth in them, provisions that will be effective, and provisions that will be effective within the next few years instead of in the dim and distant future or not at all, how much power will they have if we continue to defer squarely meeting the issue as a matter of expediency? Because that is the only argument that can be advanced, unless it is simply desired to permit the monopoly to continue to exploit the people, I do not think any member of the committee will deny that it is absolutely inevitable that we are going to have to regulate the radio public utilities just as we regulate other public utilities. We are going to have to regulate the rates and the service, and to force them to give equal service and equal treatment to all. As it stands now they are absolutely the arbiters of the air.

They can permit one candidate to be heard through their broadcasting stations and refuse to grant the same privilege to his opponent. They can permit the proponents of a measure to be heard and can refuse to grant the opposition a hearing. They can charge one man an exorbitant price and permit another man to broadcast free or at a nominal price. There is absolutely no restriction whatever upon the arbitrary methods that can be employed, and witnesses have appeared before our committee and already have given instances of arbitrary and tyrannical action in this respect, although the radio industry is now only in its infancy.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. Yes.

Mr. BLANTON. What time can there be better than now to write a proper radio bill? One candidate might be able to pay $1,000 for one night's service over the radio, and another candidate might not be able to put up anything, and the radio could shut that man out and let the other in.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. DAVIS. I yield myself five additional minutes.

The gentleman from Texas [Mr. BLANTON] is quite right. Now is the time to write and enact a proper radio bill that will protect the entire radio industry and the public generally.

Mr. CELLER. Will the gentleman yield?

Mr. DAVIS. For a brief question, yes.

Mr. CELLER. I wish to state to the gentleman that I was asked to pay by the American Telegraph & Telephone Co. $10 for every minute I desired to use the radio during the last election, and I refused to pay it. I have no knowledge that candidates of the opposing party were asked to pay the same amount for the same use.

Mr. DAVIS. I thank the gentleman for his contribution. Now, on the question of monopoly, if you will read the report of the Federal Trade Commission, or if you will do me the honor to read my minority views, in which I quote from it, you will find some of the contracts between those companies. You will see for yourselves that there is a powerful and effective monopoly.

In the last Congress, when we were considering the bill that was reported out in that Congress, the Secretary of Commerce, Herbert Hoover, appeared before the committee, and I want to read to you what he had to say about it and after discussing the importance of legislation:

It is urgent that we have an early and vigorous reorganization of the law in Federal regulation of radio. Not only are there questions of orderly conduct between the multitude of radio activities, in which more authority must be exerted in the interest of every user, whether sender or receiver, but the question of monopoly in radio communication must be squarely met.

All that I am asking you gentlemen to do is to do what your own Secretary of Commerce said ought to be done—meet the issue squarely. This is not a partisan question at all, and there is no reason why it should be. I am appealing to one side of this Chamber just as much as I am to the other, because it is a matter in which everyone of you and in which every American citizen is interested, and one in which we shall all be even more vitally interested in the future, because I want to tell you that the future potentialities of radio are absolutely inconceivable.

I wish I had the time to state the predictions which have been made by many. However, I quote Secretary Hoover further:

It is inconceivable that the American people will allow this newborn system of communication to fall exclusively into the power of any individual, group, or combination. Great as the development of radio distribution has been, we are probably only at the threshold of the development of one of the most important of human discoveries bearing on education, amusement, culture, and business communication. It can not be thought that any single person or group shall ever have the right to determine what communication may be made to the American people.

* * * * * * *

We can not allow any single person or group to place themselves in position where they can censor the material which shall be broadcasted to the public. * * *

And I want to tell you that that is being done right now by the private and corporate radio broadcasters, and they admitted it at the hearings.

Mr. W. E. Harkness, assistant vice president of the American Telephone & Telegraph Co., while making a statement at the hearings with regard to the practice of their broadcasting stations operated for hire, stated in part as follows:

Mr. DAVIS of Tennessee. Now, do you assume the right to reject applications for service?

Mr. HARKNESS. We do.

Mr. DAVIS of Tennessee. And in actual experience, have you had occasion to reject a great many?

Mr. HARKNESS. Yes; I can say frankly, we have, because we take the same position that is taken by the editor of any publication. He has the right to accept or reject any material presented to him. You can not walk into a newspaper office to-day and get them to publish anything you care to present. We felt that was a privilege which the owners of the broadcasting stations also possessed.

Mr. LARSEN. How do you regulate that; do you require them to reduce it to writing?

Mr. HARKNESS. Yes.

Mr. LARSEN. And you censor that?

Mr. HARKNESS. We do just the same as an editor would do with any article presented to him for publication. We do not censor—we edit. We feel if the matter is unfair or contains matter which the public would not care to hear, we may reject it. * * *

A question was asked by the gentleman from New York [Mr. LAGUARDIA] about censorship, whether there was anything in this bill permitting Government censorship.

The answer was no; and I am not in favor of that, but I am even more opposed to private censorship over what American citizens may broadcast to other American citizens. [Applause.] That is what you have at present, and there is nothing in this bill which even pretends to prevent it or to protect the public against that.

Now, what else did Secretary Hoover say?

Radio communication is not to be considered as merely a business carried on for private gain, for private advertisement, or for entertainment of the curious. It is a public concern impressed with the public trust, and to be considered primarily from the standpoint of public interest to the same extent and upon the basis of the same general principles as our other public utilities.

That is all I am asking. I am asking that the radio interests that are engaging in the business for profit or hire be treated in this legislation as public utilities and regulated accordingly. [Applause.]

The CHAIRMAN. The time of the gentleman from Tennessee has again expired.

PROPOSED AMENDMENTS TO THE PENDING RADIO BILL

Mr. DAVIS. Under leave granted to me to do so, I herewith insert the amendments which I intend to propose to H. R. 9971, the White radio bill, as follows:

Page 8, line 6, after the word "sale," insert the words "or use."

Page 8, line 8, after the word "means," strike out the period and insert in lieu thereof a semicolon and the following: "and no license shall thereafter be granted to such person, firm, company, or corporation thus found to have been so offending, unless and until in the opinion of the commission such person, firm, company, or corporation shall have fully desisted from such unlawful practices and conduct and such finding has been certified by the commission to the Secretary of Commerce."

Page 9, lines 1 to 3, strike out the words "The Secretary of Commerce may grant station licenses only upon written application therefor addressed to him, which application shall set forth such facts as he by" and insert in lieu thereof the following:

"No license shall be issued under the provisions of this act unless the applicant shall have first filed in duplicate with the Secretary of Commerce and with the commission a written application therefor, accompanied by a statement in writing under oath or affirmation containing copies of all traffic and other contracts in writing, and the substance of any and all other agreements or arrangements not in writing, between the applicant and any other person, firm, company, or corporation engaged in the business of transmitting for pay or profit by wire or wireless intelligence, signals, visual images, or other communications, or in the manufacture, use, purchase, sale, and/or operation of apparatus, patented or unpatented, for the transmission and/or reception by wire and/or wireless of intelligence, signals, visual images, or other communications, and/or for the acquisition, purchase, use, or sale of patents, patent rights, and licenses, and disclosing all shares of the capital stock or other share capital of or interest owned by the applicant, directly or indirectly, or held directly or indirectly for such applicant's benefit in any corporation, association, firm, or person engaged in the manufacture, use, or sale of apparatus or devices for wire or wireless transmission or communication, or in the business of transmitting by wire or wireless intelligence, signals, visual images, or other communications, and including such other facts as the Secretary of Commerce and/or the commission by."

Page 9, after line 20, insert a new subsection, as follows:

"On the information disclosed by the applicant in connection with his application as provided by subsection D, and upon such other proof as may appear, the commission shall determine whether or not the applicant is directly or indirectly in violation of the laws of the United States monopolizing or attempting to monopolize interstate or foreign commerce, or is engaged directly or indirectly in a violation or in an attempt to violate the laws of the United States against combinations, contracts, or agreements in restraint of trade; in the transmission by wireless for pay or profit intelligence, signals, visual images, or other commmunications; in the acquisition, sale or use of patents, patent rights, and/or licenses for wireless inventions and discoveries; in the purchase, manufacture, sale, use, and/or operation of apparatus, whether patented or unpatented, for the transmission and/or reception by wireless of intelligence, signals, visual images, or other communications. If said commission determines that as a matter of law or as a mixed question of law and fact said applicant is violating the laws of the United States in any of the above respects, it shall certify such finding to the Secretary of Commerce, and the latter shall refuse to grant the license applied for. A copy of the decision of the commission shall be served on the applicant, who shall thereupon have a right to a hearing before the commission and at which any party interested shall be entitled to be represented by counsel, and to submit such further evidence, oral or written, as may be material and competent. After said hearing the commission shall make its decision in writing, setting forth its findings of fact and rulings of law; and if it finds that the applicant is violating the laws of the United States in any of the above respects, it shall certify such finding to the Secretary of Commerce, and the latter shall refuse to grant said license. Any applicant for a license aggrieved by a decision of the commission shall have a right of appeal from the decision of the commission to the Court of Appeals of the District of Columbia, and the commission shall, upon notice of the entry of the appeal, certify under the signature and seal of the commission a copy of its decision stating its conclusions of fact and the rules of law applied in arriving at its decision, together with the evidence, if requested, upon which it based its decision. Upon all questions of fact the decision of the commission shall be final, but said court of appeals shall have the power of revision of the decision of the commission on all questions of law, and its decision thereon shall be final. During the pendency of any appeal to said court of appeals the commission shall have authority, in its discretion, if it deems the law to be doubtful and so declares in its opinion, to authorize the Secretary of Commerce to grant a license to the applicant upon such terms and conditions as it deems consistent with public interest, but upon a decision by the court of appeals that said applicant is guilty on the facts found by the commission of violating the laws of the United States in any of the above respects, said license shall forthwith be revoked."

Page 11, line 4, after the word "service," insert a comma and the following: "or has violated or failed to observe the laws of the United States relating to unlawful restraints and monopolies, or to combinations, contracts, or agreements in restraint of trade."

Page 11, line 21, after the word "revocation," insert the following:

"Any person, firm, company, or corporation who feels aggrieved because of the refusal of the Secretary of Commerce to grant a permit or license, or to assign a satisfactory wave length, or who feels aggrieved because the Secretary of Commerce has granted a particular permit or license or wave length, or who feels aggrieved because of the revocation of a permit or license or the change of a wave length, or because of any other action or decision under the provisions of this act, shall have the right to appeal from such action of the Secretary of Commerce by filing with said commission, within 20 days after the decision or action complained of is effective, notice in writing of said appeal and the reasons therefor.

"The Secretary of Commerce shall be notified of such appeal by service upon him prior to the filing thereof of a copy of said appeal and of the reasons therefor.

"The case shall be heard de novo by the commission under regulations adopted by the commission for the hearing of such appeals, and the Secretary of Commerce and all parties interested or aggrieved shall be permitted to present any competent evidence. An appeal by either party shall lie from the decision of the commission to the Court of Appeals of the District of Columbia in the same manner as appeals are granted, perfected, and heard upon other decisions rendered by the commission."

Page 12, line 12, after the word "communications," strike out the period and insert in lieu thereof a semicolon and the following language: "And no person, firm, company, or corporation violating any of

said laws shall be entitled to any license or permit provided for in this act."

Insert a new section, as follows:

"SEC. —. The Federal radio commission shall also have all the powers to investigate and regulate and all the duties of investigating and/or regulating persons, firms, companies, and corporations engaged in interstate or foreign commerce in the business of transmitting for pay or profit by wireless intelligence, signals, visual images, or other communications, in the acquisition and sale of patents, patent rights, and licenses for wireless inventions or discoveries, and/or in the use, purchase, sale, and/or operation of apparatus, patented or unpatented, for the transmission and/or reception by wireless of intelligence, signals, visual images, or other communications which the Interstate Commerce Commission has to investigate and regulate common carriers under 'An act to regulate commerce approved February 14, 1887,' and all acts amendatory thereof and supplementary thereto. Excepting as otherwise provided by this act, in all proceedings under this section the procedure, including service of process, returns, hearings, attendance of witnesses, depositions, orders, and enforcement thereof and other methods, shall or may be the same as that prescribed or otherwise in proceedings before the Interstate Commerce Commission, and the jurisdiction of the courts with respect to proceedings under this section shall be like their jurisdiction over proceedings before the Interstate Commerce Commission."

Page 13, after line 3, insert a new paragraph, as follows:

"SEC. —. That unfair methods of competition in interstate or foreign commerce in the acquisition and sales of patents, patent rights, and licenses for wireless inventions and discoveries and/or in the use, purchase, sale, and/or operation of apparatus, patented or unpatented, for the transmission and/or reception by wireless of intelligence, signals, visual images, or other communications are hereby declared unlawful, and in addition to the other powers and duties conferred upon the commission by this act, it is hereby empowered and directed to prevent persons, firms, companies, or corporations from using such unfair methods, and for that purpose is given the powers and jurisdiction with reference to the subject matter of this section like those given to the Federal Trade Commission by "An act creating a Federal Trade Commission approved September 26, 1914," and all acts amendatory thereof and supplemental thereto with reference to the subject matter of those acts. Excepting as otherwise provided by this act, in all proceedings under this section, the procedure, including service of process, returns, hearings, attendance of witnesses, depositions, orders and enforcement thereof, and other methods, shall or may be the same as the procedure prescribed or authorized in proceedings before the Federal Trade Commission. Any person, firm, company, or corporation interested in or aggrieved by any such order, finding, or decision of the commission shall have the right of appeal to the Court of Appeals of the District of Columbia, and the jurisdiction of such court with respect to proceedings under this section shall be like the jurisdiction of the court over proceedings before the Federal Trade Commission."

Page 16, after line 20, insert a new section, as follows:

"SEC. —. It shall be unlawful for any person, firm, company, or corporation, in any manner or by any means, (a) to send or carry, or to cause to be sent or carried, from one State, Territory, or possession of the United States or the District of Columbia to any other State, Territory, or possession of the United States; or (b) to bring, or to cause to be brought, into the United States or into any of its Territories or possessions from any foreign country, any radio vacuum tubes or other radio apparatus or any of the parts of either, whether patented or unpatented, accompanied or then or at any time affected or impressed by or with any condition, agreement, instruction, obligation, or limitation, the purpose and/or effect of which is to fix the price at which the purchaser may resell the same, or to prohibit or restrict the parties by whom or the purposes for which said tubes and apparatus or the parts thereof may be used."

Page 22, lines 9–10, after the word "Washington," strike out "at such time and place as the chairman of the commission may fix," and insert in lieu thereof the following: "As soon after their appointment and confirmation as possible at which time the members of the commission shall elect one of their number chairman and otherwise organize."

Page 22, line 10, after the word "fix," insert "thereafter the commission shall convene at such times and places as a majority of the commission may determine, or upon call of the chairman thereof."

Page 22, lines 19 and 20, after the period, strike out "any person interested in or aggrieved by any decision of the Secretary of Commerce," and insert in lieu thereof the following: "Any person, firm, company, corporation, or municipal corporation interested in, aggrieved, or in any way affected or inconvenienced by any decision of the Secretary of Commerce with respect to the granting or refusal of a permit or license or the revocation or refusal to revoke a license."

Page 22, line 25, after the word "it," insert "decisions of the commission, whether upon appeals or references, shall be binding upon the Secretary of Commerce and all other parties unless and until such decisions be reversed or modified by the court on appeal."

Page 23, line 17, after the word "Congress," insert "With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the commission may from time to time find necessary for the conduct of its work, all employees of the commission shall be a part of the classified civil service and shall enter the service under such rules and regulations as may be prescribed by the commission and by the Civil Service Commission."

Page 23, line 18, strike out lines 18 to 23, inclusive, as follows: "The members of the commission shall receive a compensation of $25 per day for each day's attendance at sessions of the commission and while traveling to and from such session, but not to exceed 120 days' pay in any calendar year, and also their necessary traveling expenses," and insert in lieu thereof the following: "Each member of the commission shall receive a salary of $10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States. No commissioner shall engage in any other business, vocation, or employment."

Page 27, lines 23 and 24, and page 28, lines 1 and 2, after the word "kind," strike out the comma and the words "Nor shall any broadcasting station rebroadcast the program or any part thereof of another broadcasting station without the express authority of the originating station."

Page 28, line 14, after the word "commerce," insert the following: "or the commission."

Page 28, lines 19 and 20, after the word "offense," strike out the comma and the following language: "which fine may be mitigated or remitted by the Secretary of Commerce," and insert in lieu thereof a period.

Page 30, line 10, after the word "passed," strike out "the period" and insert the following: "; *Provided, however,* That nothing contained in this section shall be construed as authorizing any person, firm, company, or corporation now using or operating any apparatus for the transmission of radio energy or radio communications or signals, to continue such use, except under and in accordance with this act and with a license in that behalf hereafter granted by the Secretary of Commerce and except as hereinbefore authorized."

Mr. LAZARO. Mr. Chairman, I would like to make an inquiry. I understand that the gentleman from Tennessee [Mr. DAVIS] is against the bill, while I am for the bill. Under the circumstances who controls the time on this side?

The CHAIRMAN. The Chair is not advised as to whether he should explain who should control the time. But, generally speaking, the chairman of the committee controls the time on one side and the ranking minority member of the committee controls the time on the other side unless there is some understanding to the contrary.

Mr. RAMSEYER. No, Mr. Chairman; under the rules governing Calendar Wednesday one-half of the time shall be controlled by those in favor of the bill and one-half by those opposed to it.

The CHAIRMAN. Then the Chair will recognize the gentleman from Tennessee [Mr. DAVIS].

Mr. DAVIS. Mr. Chairman, there is no difference between the gentleman from Louisiana [Mr. LAZARO] and myself about the division of time.

The CHAIRMAN. The gentleman from Tennessee has used 35 minutes of his hour.

Mr. DAVIS. Whom does the Chair recognize to yield further time? It is immaterial to me.

The CHAIRMAN. The Chair will recognize the gentleman from Tennessee to control the time on his side.

Mr. DAVIS. Then, Mr. Chairman, I yield five minutes to the gentleman from Rhode Island [Mr. O'CONNELL]. [Applause.]

Mr. O'CONNELL of Rhode Island. Mr. Chairman and members of the committee, there is no doubt that there is imperative need for radio legislation at this session. The only difference of opinion the Members can have is as to just how far we may and should go at this time, and in the short time at my disposal I simply want to point out to the Members of this House the situation with regard to the bill before us.

H. R. 5589 was first presented by the gentleman from Maine [Mr. WHITE] on December 15, 1925. It was referred to the Committee on the Merchant Marine and Fisheries for consideration; then after consideration in the committee, H. R. 9108, referred to in the report on the present bill, H. R. 9971, was reported by the committee as the result of its deliberations on the previous bill, H. R. 5589, which was introduced, as I have stated, by the gentleman from Maine [Mr. WHITE]. In H. R. 9108, reported favorably by the chairman [Mr. SCOTT], section 4, of which you will hear a great deal in this discussion, was included, and every member of the Committee on the Merchant Marine and Fisheries voted in committee in favor of section 4. Section 4 provided, in substance, that it shall be unlawful to transmit within the United States or its possessions, or to bring or cause to be brought from any foreign

country, any radio vacuum tubes or other radio apparatus, or any of the parts of either, upon which there is any contract or agreement the purpose of which is to fix the price at which such articles may be resold or to restrict or prohibit the parties by whom or the purposes for which said tubes and apparatus or the parts thereof may be used. Then after that bill was reported the radio interests got busy and they went around to see the different members of the committee. They themselves did not object to that provision in section 4 which provided that there should be no price fixing; they only objected to that provision as to the use of the tubes and apparatus, and even so far as that section was concerned they were perfectly willing that it should go in the bill, provided the word "unlawfully" might be used, so that there would be no change in the patent laws by reason of the enactment of this measure. To that extent I am willing to go, but not to the extent of eliminating the section altogether. Then the committee met again and the gentleman from Maine brought a new bill to the House, which is H. R. 9971, and which we are now considering.

It is identical with H. R. 9108 except that there are some minor changes in phraseology to perfect the text, and that section 4 is left out. These are the only changes in the bill we have before us.

We suggested in committee that if the other Members did not want to have section 4 in the bill, which was the provision to safeguard the public against monopolistic practices, that they should offer a committee amendment to strike out section 4. That would have been the fair, the honorable, and the ethical way for the committee to have acted; but in my opinion they did not want this House to have an opportunity to consider section 4, and I believe it will become apparent as the consideration of this measure progresses, that when the gentleman from Tennessee offers section 4 as an amendment to the bill they will raise the point of order that it is not germane, and although every member of the committee voted in favor of that section and reported a bill to the House containing that section they are going to try to prevent you gentlemen, as Members of the House, from even considering section 4, by raising the point of order that it is not germane, although even in the first paragraph of the bill we declare that the ether within the limits of the United States is the inalienable possession of the people thereof, and that Congress under the Constitution has the right to regulate its use, and the whole bill is predicated upon the purpose to protect the rights of the public and to prevent the existence and growth of monopolies.

There are other provisions in this bill in regard to monopolies, and I say it would have been a fairer way for this committee to act if it had recommended as a committee amendment the striking out of that section, in which case the Members would have a chance to discuss it thoroughly, to vote upon it intelligently, instead of going about it in the way they have and trying to prevent us from even considering section 4 and kindred amendments.

Mr. BLANTON. If the gentleman will yield, we could make it germane if we could get enough votes.

Mr. O'CONNELL of Rhode Island. I think we can, and I hope we will get enough votes because this is one of the most important sections of the bill, and as the gentleman from Texas observed only a few minutes ago, now is the time to write a proper, a just, and a comprehensive radio bill. [Applause.]

Mr. DAVIS. Mr. Chairman, I yield five minutes to the gentleman from Georgia [Mr. LARSEN].

Mr. LARSEN. Mr. Chairman and gentlemen, I had not intended to make a speech on this bill at all, but probably I had better make a statement with reference to section 4.

So far as section 4 is concerned, I think it is a rather important provision, but I am for the bill regardless of whether section 4 be reinserted. I think there is sufficient matter in the bill that we ought to pass it regardless of whether section 4 be reinstated.

Section 4 was discussed to a very limited extent when the matter was under consideration before the committee. The bill before the committee did not contain section 4 at the time the hearings were being conducted. After the hearings had been completed, even after the bill had been referred to the subcommittee and the subcommittee had made a favorable report thereon, section 4 was put into the bill.

I voted for reporting of the bill when before the subcommittee without section 4 being in it, as did other gentlemen on both sides of the Chamber. When we went back into the full committee to consider the bill after the subcommittee had made its report there was a proposition to insert section 4. I then voted to include section 4 in the bill, and I shall vote to reinstate section 4 if it is offered as an amendment, but as before stated, whether it is reinserted in the bill or not I shall vote for the bill just the same.

There are many antimonopoly provisions still in the bill, and I think they are good ones and very well worth while.

The general antimonopoly law of the land applies to the provisions of this bill just like it applies to all other matters of the kind. It covers radio or business operations of any kind, and it will not be excepted from the provisions of this act. Where a monopoly exists not only does the general law apply but the bill further provides that the Secretary shall under certain conditions revoke licenses or that a court finding them guilty of monopoly may revoke license. As the bill provides that no one can operate without a license, if it once be determined that our antimonopoly laws are being violated, of course it means the business is wound up and dissolved.

Mr. JOHNSON of Texas. Will the gentleman yield?

Mr. LARSEN. Yes.

Mr. JOHNSON of Texas. As I understand it, the license is for five years?

Mr. LARSEN. The gentleman from Maine [Mr. WHITE] in stating that I think did not express himself fully on the point. The maximum time for which a license can be granted is five years, but it may be granted for a lesser period.

Mr. JOHNSON of Texas. The question I particularly had in mind was this: If the Secretary of Commerce has to wait until a court finds out whether a concern is a monopoly or not, would not the license expire before the fact was ascertained?

Mr. LARSEN. No; I think not. I see no reason why the courts should not act on a matter of that kind in less than five years.

Mr. JOHNSON of Texas. Is it not true that in the Federal court there would be required a judgment of the final court, the Supreme Court of the United States, which usually takes a great deal of time.

Mr. LARSEN. This might be true, but I have had a few cases myself, and I never had one yet that required five years.

Mr. JOHNSON of Texas. I have had some in the State courts that have taken longer than five years.

Mr. LARSEN. It seems to me it is not necessary for such cases to require so much time.

Mr. APPLEBY. Will the gentleman yield?

Mr. LARSEN. Yes.

Mr. APPLEBY. Is it not true that the Secretary of Commerce now grants temporary licenses and that they can be revoked at any time?

Mr. LARSEN. Yes; that is true. I think most of them are granted for a period of 90 days, and probably the maximum is for a period of one year.

The Secretary for sufficient cause shown to him can refuse or revoke a license; the courts upon finding a monopoly to exist can declare such monopoly and revoke the license; therefore, I think every necessary precaution is provided for in the bill. [Applause.]

Mr. DAVIS. I yield five minutes to the gentleman from Virginia [Mr. BLAND].

Mr. BLAND. Mr. Chairman and gentlemen of the committee, in dealing with the subject of radio it is highly important, in my opinion, that we should be relieved in the presence of this Chamber as much as possible of the presence of static and of too much radio interference.

I am in accord with most of the provisions of this bill. I hope that the impression will not obtain that the bill which has been presented by the committee is a bad bill. In my opinion it is a decided improvement over the present situation. So far as I as a member of that committee am concerned, I shall welcome the most careful study of the bill by members on this committee, for we are dealing with a highly technical and complex subject, extremely complicated, and it is necessary that the best thought of all members of the committee should be directed to the subject under consideration.

There is one amendment that will be offered by the gentleman from Tennessee [Mr. DAVIS], which, in my opinion, is highly important and to which we will ultimately come if we do not write it at the present time into the bill. That is an amendment giving wider powers to a commission and establishing what we might term a permanent radio commission, which shall deal with, and perhaps solve, many of the problems which now perplex us. It is true that in this bill we have provided a commission, but, gentlemen, while I do not wish to say anything that would be derogatory to that commission, it is a commission which upon study will be found to represent and register the will of the Secretary of Commerce or somebody in the Department of the Secretary of Commerce. This commission will be drawn from the country at large and brought here with limited time at its disposal. It will be a commission that will give only part of its time to the study of radio, and dealing with a subject as important as this, a subject as far reaching as this, a subject relating to the transmission of intelligence, it

does seem to me that it is wise that we should consider the establishment of a permanent commission.

I am no more in favor of the establishment of commissions than the average Member on the floor and this power has been vested in an Interstate Commerce Commission, but it is a power that can not be exercised and will not be exercised by the Interstate Commerce Commission, because the time of that commission is exclusively taken with railroad legislation and will be so taken in the future as much as in the past. So I am going to ask the members of the committee to give most careful consideration to this amendment which will be proposed by the gentleman from Tennessee, and which, so far as I can see, will offer no considerable expense to the expense to be incurred under this bill. [Applause.]

Mr. DAVIS. Mr. Chairman, how much time is there remaining?

The CHAIRMAN. The gentleman from Tennessee has eight minutes remaining.

Mr. DAVIS. I yield four minutes to the gentleman from New York [Mr. CELLER].

Mr. CELLER. Mr. Chairman and gentlemen of the committee, I think the gentleman in charge of the debate ought to be subject to considerable criticism for allowing but two hours for the consideration of this bill. I do not believe there is a more important bill to come before the House than this radio bill. There are 5,000,000 radio sets in this country, and in the hearings I am told that five to six persons use a set, so that this bill practically affects over 25,000,000 people. There are 15,111 amateur broadcasters, 1,901 ships with radio appliances, 553 land stations, and 536 broadcasting studios, making a total of 18,094 stations, and yet, despite that importance, we are only allowed two hours of general debate. It is a bill replete with intricate legal and scientific problems, and yet we are expected to digest and assimilate it in the short space of two hours. Consequently I think the bill as I read its hearings and scrutinize its provisions has been most illy considered. That is a broad but a proper assertion and is made with all due respect to the members of the Committee on the Merchant Marine and Fisheries.

No scientific testimony of any character was taken except from interested sources; the great public has not been represented, the public is not organized like the Radio Corporation of America or the American Telephone & Telegraph Co. The public is not really represented in these hearings. The voice of the people is not expressed in this bill, and for that reason I think the committee deserves another degree of censure for not calling disinterested witnesses to testify upon both the legal and scientific phases of radio.

Mr. SCOTT. Will the gentleman yield?

Mr. CELLER. I have only four minutes and can not yield.

Mr. SCOTT. I will give the gentleman another minute.

Mr. CELLER. Very well.

Mr. SCOTT. Is the gentleman an expert?

Mr. CELLER. I am not.

Mr. SCOTT. Does the gentleman know who the experts are?

Mr. CELLER. That is beside the point. I think the House is entitled to expert testimony from disinterested sources, and there was no expert, disinterested, who testified before this committee.

The committee might have communicated with the Bureau of Standards. It could have authorized it to make a complete study of radio. It has a wonderful radio bureau. Many scientists high in the calling of radio who are stationed at the bureau would have been pleased to have rendered help of a very scientific character. They would have prevented the committee from stumbling. They would have shed light where in the bill there is naught but darkness. Yesterday, for example, I communicated with Doctor Dellinger, chief of radio at the Bureau of Standards, and asked him to define for me the word "ether." Ether is used in the first section of the bill. Ether plays a very important part in the transmission of radio waves. I ask the gentleman from Michigan [Mr. SCOTT] to explain to me what he knows about ether. I ask him to give me a concrete, concise definition of ether.

Mr. SCOTT. The gentleman asks me to give it to him?

Mr. CELLER. Yes.

Mr. BLANTON. The gentleman can not do it.

Mr. CELLER. Yet the gentleman seeks to say in this bill that the ether throughout the length and breadth of this country, the ether which is all pervading, which is in the air around and above us, which is in your body and which is in mine, in this room and everywhere, in the densest of bodies, shall be the inalienable possession of the people of the United States. What is ether? You do not know, I do not know, and I defy any man in this room to tell me what ether is. No two scientists will agree as to what it is. If that is the case, then I say that the bill is ill-considered if we try to dispose of ether that way and if you seek to legislate on a matter you know nothing about and upon a matter about which there was no scientific testimony adduced before the committee.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. SCOTT. Does the gentleman want the one minute that I promised him?

Mr. CELLER. I do not suppose that I can do much in a minute, but I ask the gentleman to read carefully my extended remarks in the RECORD which will appear to-morrow morning.

Mr. SCOTT. I would be glad to give the gentleman the minute. He says he was asked to pay $10 for making a speech of a minute, and now he could make it for nothing.

Mr. CELLER. I did not realize my remarks were worth that. [Laughter.]

In due course I shall offer an amendment to section 1. Page 1, lines 3 to 8, inclusive, should read as follows:

That it is hereby declared and reaffirmed that the authority to regulate the transmission of radio energy or radio communications or signals within the limits of the United States, its Territories and possessions, in interstate and foreign commerce is conferred upon the Congress of the United States by the Federal Constitution.

It would do away with any declaration as to "ether" and will simply declare that the United States has authority to regulate radio communication and transmission of radio energy. We will then avoid legal as well as scientific controversy. You might as well talk about the fourth dimension as well as try to define, possess, or own or legislate about the "ether." Knowledge thereof is in the nebular state of theory.

Permit me at this point to tell a story of a radio fan who went to the man who sold him his radio set and said: "I am a thousand miles from Kansas City, but can not get it clearly. Should I move my set closer to my aerial?" The man answered, "No; move your set closer to Kansas City."

I suggest that the chairman of the committee get a little closer to the science underlying the transmigration of radio waves.

Permit me at this point to introduce into the RECORD a letter received from the Chicago Federation of Labor Radio Broadcasting Association:

CHICAGO, ILL., *March 10, 1926.*

Hon. EMANUEL CELLER,
Washington, D. C.

DEAR SIR: The White (radio) bill as written is a menace to the highest welfare of the people.

If it passes, the Department of Commerce will become more powerful than the Presidency. A monopoly of the air is already here. Is it wise to build up so colossal a political power?

The Department of Commerce, by its illegal and unfair handling of radio, has proved itself unworthy of exercising this power, and we urge that such power be lodged solely in a regional commission.

There are serious "jokers" in the bill. Ostensibly only radio communication is the subject of the bill, but it is so worded as to include all radio energy and can be used to cover the regulation of power transmission to run trains, etc., by radio. The total omission of such words as "radio energy" and "electrical energy" and the insertion of some exact definitions would cover this point.

Radio operators should not be fed to a centralized bureaucratic maw by requiring them to be licensed. Railroad trackwalkers, signal-light men, conductors, and locomotive engineers upon whose faithfulness and efficiency many lives and large property values depend are not licensed by the Department of Commerce. Why should a few poorly paid little radio operators be licensed?

Chain station broadcasting should be prohibited except on the same wave length, and no power greater than 500 watts should be permitted to be used in broadcasting. Interference to-day is caused by superpower stations, which only a favored few are permitted to have.

Provision should be made so that radio patents bought up and suppressed should become invalid after three years from their date of issue. This nefarious process has already begun.

We earnestly commend the above items to your wise and patriotic consideration.

Very cordially yours,

CHICAGO FEDERATION OF LABOR,
E. N. NOCKELS, *Secretary.*

Upon receipt of this communication I got in touch with the American Federation of Labor in Washington and was informed by Mr. Roberts, of its legislative committee, that it is squarely behind the objections to the bill set forth in the above letter.

I think the amendment concerning monopoly in radio which Judge DAVIS, of Tennessee, will offer will cure an important defect of this bill. I shall support his amendment. The errors in the bill pointed out by the American Federation of Labor

should likewise have the consideration of the members of this committee.

There are two other sections of the bill which should be amended, namely, section 6 and section 3. Section 6 reads as follows:

All matter broadcast by any radio station for which service, money, or any other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, firm, company, or corporation, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person, firm, company, or corporation.

And is aimed at disguised advertising.

The author of the section sought to follow the law of the District of Columbia against newspapers printing disguised advertising. That law, which was a rider to the Post Office appropriation bill, August, 1912, Sixty-second Congress, second session (vol. 37, Stat. L. 553–554), is as follows:

All editorial or other reading matter published in any such newspaper, magazine, or periodical for the publication of which money or other valuable consideration is paid, accepted, or promised shall be plainly marked "advertisement." Any editor or publisher printing editorial or other reading matter for which compensation is paid, accepted, or promised without so marking the same, shall upon conviction in any court having jurisdiction be fined not less than $50 nor more than $500.

The amendment as now constituted is too weak to get at the evil of deceptive advertising. In the first place, it is made optional with the broadcaster to announce that the matter is paid for or furnished. The broadcaster will always say "furnished," since you give him a choice. He will never say "paid for." Listeners will not understand that the material is advertising if the matter is prefaced by the words "furnished." The situation will be as bad as ever, and it is very bad. Disguised advertising has gone to undue lengths. We must stop the abuse.

Permit me to burlesque the situation and give you some of the radio pabulum and disguised advertising given out for radio consumption:

"This is BLAA broadcasting station of the Giant Peanut Co., Newark, N. J. You will now have the pleasure of listening to the 'Walk-Up-One-Flight Clothing Co.'s orchestra.' Their first number will be, 'You Don't Wear Them Out If You Don't Sit Down.' Should any of our radio fans desire to communicate with the 'Walk-Up-One-Flight Clothing Co.'s orchestra' they can do so by communicating with BLAA station.

"This is SPOOF station, Chicago, Ill. You have just listened to Mr. B. Fuddled, of the Lone Star Ham Co., in his interesting talk on 'Tid-bits and why delicious Lone Star ham should be on every table.'

"Those of you who relish a good cigar will be delighted to hear that our next number will be a song, 'Rings of Smoke,' to be rendered by Mr. Jack A. Napes, general sales manager of the Amalgamated Cigar Stores Co. We ask our radio fans to remember the Amalgamated Cigar Stores Co., because it will have one of its employees perform for us every Monday night.

"You have just heard Mr. Jack A. Napes. SPOOF signs off for the night after announcing that at 3.45 to-morrow afternoon every housewife will welcome Mrs. Laura Net, of the Durable Pancake Co., who will give helpful lessons on 'How to make flapdoodles out of sawdust.'

"This is station MEOW, Mr. T. Cat speaking, and he is happy to announce that next Tuesday at 8 p. m. folks will hear Professor Bunion, well-known chiropodist. He has taken corns off all the crowned heads of Europe. We urge our invisible audience to write us what they think of Doctor Bunion.

"This is KOKO station. Doctor Bunkum's Sanitarium of Cripple Creek, Mich., Doctor Bunkum announcing. Folks will receive with interest the news that I shall lecture on 'My Pink Pills for Pale People.' I shall be pleased to see any nervous, anemic person and show how to build him up with 'Pink pills for pale people.'"

The annoyance to radio fans of such deceptive advertising is really worse than above would indicate. I would, therefore, insist upon the broadcaster announcing that the matter in the program is "advertising." Let us use the exact word to fit the exact situation—"advertising."

Furthermore, section 6 provides for no penalty. It is therefore as now drafted, worthless. There should be provided the same penalties as newspaper publishers now labor under if they violate the law. I therefore offer the following amendment, so that section 6 will read as follows:

All matter broadcast by any radio station for the publication or broadcasting of which service money or other valuable consideration is, directly or indirectly, paid or promised to or charged or accepted by the station so broadcasting, from any person, firm, company, or corporation, shall at the time the same is so broadcast be plainly announced as "advertising." The owner or operator of any such radio station publishing or broadcasting such matter without so designating or announcing the same as "advertising" shall, upon conviction in the United States district courts, be fined not less than $50 nor more than $500. Jurisdiction is hereby conferred on the United States district courts for the trial of prosecutions of such violations.

I now come to section 3, which permits the aggrieved applicant to appeal from the order of refusal of license or order of revocation of license by the Secretary of Commerce to the Court of Appeals, District of Columbia. Why should not the appeal run to the United States district courts throughout the country?

It was argued at the hearings that the Department of Commerce would be inconvenienced if it had to go to the far-flung regions of the country to defend its action. Government exists for the convenience of its citizens. The Treasury Department defends itself in tax cases in the United States Circuit Court of Appeals throughout the country. It does not complain. Furthermore, appeals from the Federal Trade Commission are not limited to the courts in Washington. They run, likewise, to the circuit court of appeals throughout the country. Appeals from the Interstate Commerce Commission run to the district courts as well as to the commerce court, which is composed of the circuit judges.

The case of Keller *v.* Potomac Electric Power Co. (261 U. S. 428) was cited as an argument for the necessity of having appeals run to the courts of the District of Columbia. That case was an appeal from a decision of the Public Utilities Commission of the District of Columbia by the Potomac Electric Power Co. The district court of the District dismissed the bill in the suit against the commission and remanded the case back to the commission. The court of appeals of the District reversed the district court. An appeal was sought to the Supreme Court. The Supreme Court said it had no jurisdiction. It seemed, however, that the public utilities law empowered the court to decide legal questions and questions of fact as incident thereto.

The court was also empowered to amend and enlarge valuations, rates, and regulations established by the commission. The Supreme Court held this to be legislative as distinguished from judicial power. It held that under the power "to exercise exclusive legislation in all cases whatsoever" over the District of Columbia (Const., Art. I, sec. 8, cl. 17) Congress may vest this jurisdiction in the courts of the District.

The Supreme Court thus said it was all right for the District court and the court of appeals of the District to exercise this legislative power in the matter of amending or enlarging rates, but that the Supreme Court (and thus the United States district court) had no such power.

This case is not applicable to section 3 of this radio bill. The appeal from the action of the Secretary of Commerce involves only judicial and not legislative action. There is no question of amending or enlarging rates. There is language in section 3 which provides that either party can adduce additional evidence. I think this language should be stricken out, and then there will be no question of legislative power exercised in passing upon the proposition of revocation or refusal of license de novo.

Mr. DAVIS. Mr. Chairman, I yield the remainder of my time to the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. Mr. Chairman and gentlemen of the committee, the gentleman from Michigan [Mr. SCOTT], the chairman of the committee, may not deem the gentleman from New York [Mr. CELLER] an expert, but he, himself, is an expert on bringing a bill before us for consideration which does not regulate monopolies.

The Radio Corporation of America has already drawn largely upon the resources of the American people. It has placed at its head a retired Army officer of the United States, who is now drawing a major general's salary for life as a retired officer, who, though retired, seems sufficiently in possession of mental and physical faculties, it is said, to draw $50,000 a year more salary from the Radio Corporation.

The gentleman from New York [Mr. CELLER] was charged $10 a minute to speak over the radio. That is $600 an hour.

Mr. LARSEN. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. I am sorry that I can not yield; I have only four minutes. The gentleman was charged at the rate of $600 an hour, but his adversaries were not charged anything. That was improper discrimination.

Mr. WHITE of Maine. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. I am sorry that I can not yield in four minutes. If the gentleman will get me some more time, I will gladly yield.

Mr. WHITE of Maine. He did not say his adversaries were not charged.

Mr. BLANTON. Yes; he said that very thing. What are you going to do about this question? The night before election some fellow who might be favored by the Radio Corporation could get up in a Congressman's district and, with favored access to the radio, ruin any man running for Congress. In my home State of Texas there is no such thing as an action for slander of a man. Verbal derogatory remarks against a woman are slander, and made an offense, and are actionable. But as to a man, derogatory remarks verbally made about another is no offense, either civilly for damages or criminally.

Thus, in Texas, you see, there is quite a difference between slander and libel, as a verbal statement about a man is no offense at all, but about a woman it is slander and a violation of law. But in Texas if you write something false about a man which is derogatory, or circulate it in writing or publish it, it is libel, for which he can hold you responsible in the criminal courts and civilly for damages.

I shall offer an amendment to this bill that any derogatory language used over the radio which, according to the laws of any State into which this language may be transmitted by radio would, first, become slander, or second, if in writing would become libel, shall constitute an offense, for which the injured party could hold the offender responsible in the civil courts for damages and in the criminal courts for punishment. That is the only protection that people may have from radio attacks.

Mr. SCHAFER. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. I had only four minutes, and my time is about gone.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. BLANTON. I am glad that we are going to have some chance under the five-minute rule.

Mr. SCOTT. Mr. Chairman, I yield 20 minutes to the gentleman from California [Mr. FREE].

Mr. FREE. Mr. Chairman and gentlemen of the committee, before entering into a discussion of this subject, as I shall quite fully, I want to remind you gentlemen that all this talk about monopoly is because the gentleman from Tennessee [Mr. DAVIS] wants to make a special rule which applies only to the radio industry. The Interstate Commerce Commission has full authority and power to regulate rates in regard to radio.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. FREE. I will not yield, I have not the time. The courts and the Federal Trade Commission have the right to control any monopoly that may exist in radio. I say further, in the light of some statements that have been made on this floor, that the radio interests, so far as they are concerned, are not asking for the elimination of section 4, but are simply asking that the word "unlawfully" be put in so that they can lawfully do what the courts permit them to do, and they are not asking this Congress to permit them to do anything that is unlawful.

Now in order that we may understand something about this subject and how it grew up I want to go back a little bit into the history of the radio situation. For 60 years different inventors were trying to work out a system of transmission without wire and through the air. In 1896 Marconi applied in England for a patent. He was the man who finally commercialized radio. Marconi probably had less to do with the scientific side of radio than any other man who had actually worked in the development of the art, but he was the one who saw the commercial side of the industry, and so in 1897 he organized a company for the purpose of combining the various patents that he could get control of in order to use this as a commercial thing.

He began communicating in different ways, and finally he erected a station which got a communication of 14½ miles in distance. He then worked further, and finally he communicated with ships at sea and built up stations to communicate with those ships at sea. He kept this thing up until nearly every navy in the world finally made it a law that their boats must carry some radio apparatus. He then dreamed of a transoceanic radio; and so, when he was finally ready to make the test, he came over to the United States and from a balloon in Newfoundland listened for radio signals across the Atlantic. His dream, his desire, was gratified. He heard the tap of the keys and he had finally succeeded in transmitting words across the ocean. When he had gained that he dreamed of a world-wide radio control. He saw the great country of the United States, and so he came over here and established stations and started communication with ships at sea. In the meantime he had gotten control of various patents; but there was one patent in this country that he did not get control of, and that was a very necessary patent to him in order to complete the work that he had started out to do. That patent, the Alexanderson alternator, was owned by the General Electric Co., an American corporation, and negotiations were taken up by Marconi and his British company to get the rights from the General Electric Co. of the best transmitting apparatus that was known in the art of radio. Just at that time the war broke out, and Mr. Marconi was called to the colors in Italy, and he left the General Electric Co. with the understanding that nothing would be done with regard to disposing of the patent until the war was over. After the war was over Marconi came back to the United States and renewed his endeavors to get control of that patent that was owned by the General Electric Co. The General Electric Co. is an organization that is engaged in the development of patents; it is a company that is engaged in the sale of those patents and manufactured apparatus for money, and so they were interested, as the Marconi Co. at that time was the only company in the world that had sufficient capital and sufficient money to take over and make use of this patent.

Just at that time Admiral W. H. G. Bullard, who was Director of Naval Communications, and Commander S. C. Hooper, of the Bureau of Steam Engineering, made an appeal to the patriotism of the General Electric Co. not to sell that radio device to a foreign company and, if you will, a foreign monopoly. He pointed out to them that nearly all the cables of the world were controlled by the British and that the United States was not able to send a message unless it paid the bill to a foreign country. He pointed out to them that in the sending of messages of our business concerns we were always held underfoot by the fact that foreign messages were given preference. The General Electric Co. listened to Admiral Bullard. They said, however, that this patent was worth a lot of money, that they had put a lot of money into the development of it, and that the only available company to buy the patent or the devices made under it was the British Marconi Co. He still insisted in his patriotic appeal, and just at that time another gentleman came into the picture, A. J. Hepburn, Chief of the Bureau of Steam Engineering, who pointed out the fact that radio tubes could not be developed unless several of these patents could be combined, and urged that they be gotten under one control. In the meantime, the General Electric Co., with the advice and consent of Secretary of the Navy Daniels, and with the advice and consent of the other members of the Navy, went about to consider the formation of a company to take over this and the other patents and thereby get for the United States control of the radio interests of the United States.

Mr. DAVIS. Mr. Chairman, will the gentleman yield there?

Mr. FREE. Not yet. I regret I can not yield now. I will yield at the conclusion of my remarks.

Now, there were three parts of these tubes that were needed; the filament, the plate, and the grid, and there was no patent existing at that time that had all three within it. To show you the situation, I will state that the De Forest patents were owned by the American Telephone & Telegraph Co.; the Fleming patents were owned by the American Marconi Co.; the Alexanderson patents were owned by the General Electric Co.; the Arnold patents were owned by the Western Electric Co.; the Langmuir patents by the General Electric Co.; and the Poulsen patents were owned by the Federal Telegraph Co. of California. The general result of these conferences was that cross-licensing agreements were entered into, and the Radio Corporation of America was formed.

By the way, you have heard about this so-called monopoly of the Radio Corporation. Let me say to you that the original stock was taken up by various interests, but to-day the stock is owned by the General Electric Co., which has 15.68 per cent; by the Westinghouse Electric & Manufacturing Co., which has 6.63 per cent; by individuals allied with Westinghouse interests, 9.69 per cent; and 68 per cent is owned by 33,000 other stockholders. The United Fruit Co. and the American Telephone & Telegraph Co. have their stock in the Radio Corporation.

Mr. DAVIS. Mr. Chairman, will the gentleman yield there?

Mr. FREE. I regret I can not. The gentleman did not yield to me; but if I have time I will gladly yield to him later. I think the gentleman's statement was infinitely unfair.

I will be very glad, gentlemen, if you have time, if you will read the report of the Federal Trade Commission on the radio industry. Every fact that I have stated is stated in there. Every statement that I have made to you is a fact. If you

will take the time to read that it will repay you for the trouble. I am holding no brief for the Radio Corporation.

Now, the result of all this was that the Radio Corporation was formed to conduct radio communication and to sell radio apparatus generally throughout the country. The Westinghouse Co. and the General Electric Co. were to manufacture this apparatus for sale to the Radio Corporation, each reserving the right to sell to the Government of the United States. The American Telephone & Telegraph Co. were to get the privilege of using those patents that applied to their interests. If you will analyze them you will find they were all on different lines, but each one was to get the use of those patents that pertained to their different lines of industry.

The result finally was that limited cross licenses in these patents were given in the respective fields and the greatest radio-communication system of the world was thereby developed. The United States to-day, through the efforts of the Radio Corporation, is occupying in world radio-communication service the dominant position that Great Britain occupies so far as the cables are concerned. Now, let us be fair. The result was that because of the development of the Radio Corporation the cable companies reduced their tolls from 25 to 33⅓ per cent, and now we have service from Broad Street in New York to Great Britain, Norway, Sweden, Germany, Poland, France, and Italy, and are building stations in the Argentine, Brazil, and Chile; have Pacific stations in Hawaii, Japan, and Java; and we have stations in contemplation that will be erected in the Philippine Islands and in China.

Let me repeat to you that the Federal Trade Commission and the courts have just as much jurisdiction over radio, as far as monopoly is concerned, as over any other industry in the United States.

In addition to that, gentlemen, remember this: That not only by the rules that were promulgated by the Interstate Commerce Commission itself but by an act of Congress passed in 1920 the Interstate Commerce Commission have charge of the fixing of rates for radio transmission. The question you gentlemen have got to consider is whether or not you are going to apply special rules to a new and baby industry that you do not apply to any other industry in the United States. You have no more reason, in my judgment, to pick out the radio industry than you have to pick out any other industry in the United States and say you will lay down special rules for them.

This famous section 4 that has been talked about lays down special patent law in regard to the radio industry. Why should you pick radio? If you are going to change your patent law, go ahead and change it, and make it fair and just to everyone concerned.

Now, the situation at the present time is this: There are 35 manufacturers of these tubes. Some of the patents have expired, so that now there is competition in the making of tubes. There are 350 manufacturers of sets and there are 1,600 manufacturers of parts. These are the figures given me by the Secretary of Commerce. The Radio Corporation is third in the sale of sets. The Crosley Co. is first and the Atwater-Kent Co. is second.

I want to read from this Federal Trade Commission report that Judge DAVIS read from.

Mr. DAVIS. Mr. Chairman, will the gentleman yield there?

Mr. FREE. No; I regret I can not. This is from the Federal Trade Commission report:

> Of these sets the Radio Corporation has sold only a small proportion. In addition to the Radio Corporation there are to-day over 200 concerns engaged in the manufacture and sale of complete sets, minus tubes, and about 5,000 concerns manufacturing devices and parts useful in radio.

As of January 1, 1926, we had a total of 536 broadcasting stations in the United States. Of those 536 broadcasting stations but 12 were operated by these cross-licensed monopolies, as they have been called. According to other figures outside of the Department of Commerce, I find there are at least 200 or 300 manufacturers who are now making and selling completely assembled radio-receiving sets, with a list of about 3,000 who manufacture parts. These are very substantial concerns. They are concerns like the Atwater-Kent Manufacturing Co., A. H. Grebe & Co., Splitdorf Manufacturing Co., Stromberg-Carlson Manufacturing Co., De Forest Radio Co., Charles Freshman Co., Crosley Radio Corporation, Andrea, Stewart-Warner, Bosch Magneto, and so on down the list, a very large number.

Mr. LARSEN. Will the gentleman yield?

Mr. FREE. Yes.

Mr. LARSEN. Will the gentleman state in that connection how the prices compare now with what they were three or four years ago?

Mr. FREE. I understand that originally the tubes sold at around $6, while to-day you can buy a Radio Corporation tube at retail for $2.50. That same corporation sells to other makers of radio sets, its competitors, those same tubes for $1.10.

Mr. LARSEN. And in a general way that applies to tubes, sets, and most everything, does it not?

Mr. FREE. Yes; there is general competition now in every line. The Radio Corporation is in this position: They sell tubes to their competitors, as well as selling tubes and apparatus themselves.

Mr. WHITE of Maine. Will the gentleman yield?

Mr. FREE. Yes.

Mr. WHITE of Maine. There are other tubes, as I understand it, which sell for as low a price as 50 and 60 cents?

Mr. FREE. Yes; but the gentleman from Georgia [Mr. LARSEN] was asking particularly about the Radio Corporation's tubes. I think there are now 35 concerns that make tubes. The DeForest Co. makes over 8,000 tubes a day, so you can see that they are really a real competitor in the manufacture and sale of tubes.

In the year 1925 the Radio Corporation sold over 16,000,000 tubes, of which only 1,620,640 were to equip its own new sets, and 15,537,446, almost ten times as many, were for sets made by other manufacturers and for replacements.

In 1925 the Radio Corporation sold tubes direct to 40 different set manufacturers, the total number of tubes sold to them being 1,363,150, or nearly as many as those sold by the Radio Corporation itself in connection with its own sets.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. SCOTT. Mr. Chairman, I yield the gentleman five additional minutes.

Mr. FREE. Practically all the other manufacturers sold their sets without tubes, but equipped with standard sockets for the insertion of tubes by the purchasers. In the same year the Radio Corporation sold 9,537,152 tubes of the type 201–A, which are not used in any set manufactured by the Radio Corporation. All of these tubes must have been used in sets made by other companies, the total number of 201–A tubes alone being nearly six times the 1,620,640 tubes sold by the Radio Corporation in its own sets.

Now, what is the situation to-day? Any boy can take, as my boy did, a bolt, a little wire, and a crystal, which costs him a few cents, and make a radio set, and he can listen in on any program anywhere in the United States. If he wants a little bit better set, he can take a little bit more wire, a few more nuts and bolts, and get a tube, and he can make a tube set, paying $2.50 for the tube. If he wants to do more than that, he can go, as I have told you, to a great number of manufacturers and get a radio set according to his liking. In addition to that, he can listen in on any program being broadcast without charge. The Radio Corporation charges nothing for broadcasting any of its programs. The American Telephone & Telegraph Co. does sell its time. It gives you a fine program and it charges for some of the time, and that is the only way they can make any money out of it. If my friend from New York [Mr. CELLER] wants to get elected in New York, he has got to pay for it if he wants to use the American Telephone & Telegraph broadcast service. I do not know positively, but I am willing to bet the gentleman a new hat that everybody who made a personal campaign talk from the American Telephone & Telegraph station had to pay for that privilege. If their rates are not just, you can go to the Interstate Commerce Commission and can have them made right. If there is any monopoly in this industry, you can go to the courts or to the Federal Trade Commission. So, who is getting hurt in this game, and why should Congress say that this industry that has more undeveloped prospects in it than any other and is the least developed of any other large industry in the world—that we are going to put our foot down on its neck and crush it as a monopoly and let the other large industries in the United States be measured by a different rule? Why not put radio under identically the same rules and the same laws that you put other concerns under in order to avoid monopolies?

Let me say to you that we are the only country in the world that does not charge a license fee on receiving sets. England does it, Australia does it, and Canada does it. In addition to that, in England, the Government not only places a charge upon the broadcaster and a charge upon the receiver, but it also gets a part of the amount that is paid for the radio apparatus which the individual buys. We have the best programs

in the world; we can listen in on them at any time; we can have a $500 set or we can have a 50-cent set. So who is being hampered in the way suggested by the gentleman from Tennessee [Mr. DAVIS], who is yelling about the monopoly which he claims exists in this radio industry?

Mr. ROMJUE. Will the gentleman yield?

Mr. FREE. Gladly.

Mr. ROMJUE. Just a moment ago the gentleman made the remark that any boy with a crystal set could listen free, while a man who talked, like the gentleman from New York [Mr. CELLER], had to pay. Does not the gentleman think that if somebody has to pay, the world would be better off and we would be better off if the man who talks has to pay while the man who listens has that privilege free of charge?

Mr. FREE. That is my position. I think there is one monopoly in this thing and I think it is the individual listener. The minute he turns off his set and refuses to listen, just that minute the radio is gone so far as the sellers of sets are concerned. Because of that fact they must put on good programs; they must maintain the public interest because the public is their asset. When they sell time to an advertiser they have got to show that you and other people are listening, and if they can not show that they can not get money for broadcasting.

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. SCOTT. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. Five minutes.

Mr. SCOTT. Mr. Chairman, I yield four additional minutes to the gentleman from California.

Mr. ARNOLD. The gentleman said the Interstate Commerce Commission had charge of this service——

Mr. FREE. The regulating of rates.

Mr. ARNOLD. Yes; are they required to file a schedule of their rates and fees with the Interstate Commerce Commission?

Mr. FREE. As I understand the situation, there has never been a complaint lodged with the commission in regard to the rates charged for radio transmission. There being no complaint, there never has been a case tried before the commission, so they have not actually gone to the point of laying down the matter of rules that would apply in a case that had actually come up.

Mr. ARNOLD. If they charge for their service and if that is not supervised by the Interstate Commerce Commission, is there anything to prevent them from going ahead in the future and hereafter——

Mr. FREE. Yes; if, for instance, the gentleman from New York [Mr. CELLER] thinks he paid too much for his speech, he can lodge a complaint with the Interstate Commerce Commission and can initiate a hearing, and the whole question of the rates of the American Telephone & Telegraph Co. will be heard.

Mr. ARNOLD. Would the Interstate Commerce Commission have the right to fix a schedule of rates and fees at the request of an individual?

Mr. FREE. Certainly; that is the way all the cases come up.

Mr. LARSEN and Mr. CELLER rose.

Mr. CELLER. Will the gentleman yield for a question?

Mr. FREE. I yield first to my colleague on the committee [Mr. LARSEN].

Mr. LARSEN. Something was said here about censorship. Does the gentleman remember the testimony of Mr. Harkness:

> We do not censor—we edit.

Mr. FREE. Yes.

Mr. LARSEN. And did not Mr. Harkness further say that all they did with any manuscript that came in was simply to edit it, and if it was such an article that could properly appear in a newspaper, they broadcast it, and if it was not an article that would be proper to put in a newspaper, they did not broadcast it.

Mr. FREE. Yes; as I understand it, they have a number of committees. For instance, the Protestant denominations have a committee of their own selection, and the Jewish have a committee of their own selection, and so forth.

Mr. LARSEN. And they sometimes have a committee consisting of all of them.

Mr. FREE. Yes; and then these matters are referred to them. The only thing they do, as I understand it, is to see to it that nothing that is slanderous or seditious is put out over the radio.

Mr. CELLER. Will the gentleman yield at that point?

Mr. FREE. Yes.

Mr. CELLER. Is it not a fact, however, that the testimony you are giving now, which is a repetition of what appears in the hearings, is limited to the American Telephone & Telegraph Co.?

Mr. FREE. Oh, no.

Mr. CELLER. I beg to differ with the gentleman. If the gentleman will read the hearings again, he will find the man who gave that testimony was the representative of the American Telephone & Telegraph Co., representing WCAP at Washington and WEAF at New York, and he stated they do edit manuscripts, and they have these denominational committees to see to it that nothing is spoken that might be derogatory of the religion in question; that they edit every paper that is read into the microphone; but that was only the testimony of the representative of WCAP and WEAF. All other radio broadcasters edit and censor, in any way they see fit, whatever goes into the microphone.

Mr. FREE. I understand the system is general among all the broadcasting concerns, and they simply want to edit the manuscript to see it is not slanderous or seditious. I understand they all follow generally the same principles in regard to what goes over the radio.

Remember this, Mr. CELLER, the ultimate person to be satisfied is the person who is listening on the receiving end, and just the minute these companies begin to put over the radio the sort of stuff that is disagreeable to the hearers the value of radio is gone from every standpoint.

Mr. CELLER. I do not deny that.

Mr. FREE. And they are just as anxious that the material that goes over the radio shall please the hearers and be pleasant to the hearers as the person who receives it is to have that sort of entertainment. [Applause.]

Mr. Speaker, if you were to drop a stone in a still pool of water, waves would spread out in all directions and would have energy enough as they progressed sufficient to move objects on the water. So it is with radio waves. A wave length is the distance from the highest part of one wave to the highest part of the next. Wave lengths are measured in meters. A definite number of these waves go past a given point each second and the numbers so passing a given point each second is called the "speed or frequency" of the waves.

The velocity (distance expressed in meters or feet that the waves go in one second) can be found by watching the number of waves that go by in one second and by multiplying this number by the length of one wave.

The velocity of radio waves is 186,000 miles or 300,000 meters per second. (A meter is a little longer than a yard.)

This velocity is the same for all radio waves, no matter how long or how short they may be.

Frequencies are measured in kilocycles which equals 1,000 cycles or waves.

Receiving sets have to be adjusted to receive the number of cycles sent out, which number sent out is determined by the rapidity of the transmitting sets. There is no limit to the number of frequencies or wave lengths, but there is a limitation on the number of cycles which the receiving sets can receive.

There are some 20,000 radio stations, most of which do not engage in general broadcasting. There are now about 535 broadcasting stations in the United States.

From 0 to 200 meters is allocated—

1. To amateurs, of which there are about 16,000 stations;
2. To transoceanic communication;
3. To general experimentation.

It has been difficult to develop a receiving set that can receive on so low a wave length. From 200 to 550 meters is the broadcasting band, and all broadcasting in the United States is done within this band.

Under an international convention 600 meters is used by ships for S O S and calling purposes between ships and between ships and shore. By general consent 706 meters is now the ship wave. From 600 to 1,000 meters is for marine use; 800 meters and 1,000 meters is used for fog signals and navy compass. From 1,000 to 20,000 meters is allocated to point to point or transoceanic transmission. Every station in the world has to be considered in this allocation. As a matter of fact, most of these are United States stations.

There must be a separation of 10 kilocycles between wave lengths to avoid interference. If the wave lengths are closer the receiving sets will not pick them up.

Thus there are only 95 wave lengths or channels or wave lengths for all broadcasting. There must be a separation of at least 50 kilocycles between stations in the same locality. Theoretically you could have 20 stations in one locality.

Under agreement 6 of the 95 wave lengths are used by Canada and the remaining 89 are allocated to American sta-

tions. To-day we have 535 stations operating on 89 wave lengths, and there are over 300 applications on file for wave lengths which it is physically impossible to grant. It is only possible to grant licenses to the 535 stations by reason of the facts that many of them are low power stations. The higher power the station, the less static interference and the better transmission in daylight, as there is more strength behind the wave. So the tendency is for stations to want licenses granting them the right to use more power for their stations. A 500-watt station can be heard from coast to coast.

Broadcasting has developed tremendously in a short time. KDKA, at Pittsburgh, was the first station to get a license. This license was secured in September, 1921.

Originally all broadcasting stations were put on 360 meters, but later, because of interference, this had to be changed. So stations of low power were put on 280 meters and below. These are known as class A stations. Stations of high power were allocated to wave lengths of 280 to 550 meters. These are classed as class B stations.

There is but little United States law on the subject of radio.

On June 24, 1910, and July 23, 1912, the United States put into effect laws which provided that—

> From and after October 1, 1912, it shall be unlawful for any steamer of the United States or of any foreign country navigating the ocean or the Great Lakes and licensed to carry or carrying 50 or more persons, including passengers or crew, or both, to leave or attempt to leave any port of the United States unless such steamer shall be equipped with an efficient apparatus for radio communication, in good working order, capable of transmitting and receiving messages over a distance of at least 100 miles, day or night.

The laws also provided for the installation of auxiliary apparatus and contained regulations for the number and duties of the radio operators.

Radio communication in the United States is still operating under the wireless regulation act of 1912. This act, beside incorporating the provisions of the 1912 Radio Telegraph Convention of London, stipulated that—

> A person, company, or corporation within the jurisdiction of the United States shall not use or operate any apparatus for radio communication, except under and in accordance with a license revocable for cause, granted by the Secretary of Commerce upon application therefor.

This act gives the Secretary of Commerce no discretion as to the granting of licenses. His only discretion is in the assignment of a wave length. Under this power he has allocated wave lengths among the various uses heretofore stated.

The extent of the power of the Secretary was the issue in the case of Hoover against Intercity Radio Co. The Intercity Co. had been engaged in the business of wireless telegraphy between New York and other cities in the United States under licenses issued by the Secretary from time to time. When the last license on one of its stations expired in January, 1924, Mr. Hoover refused to grant a renewal on the ground that there was no wave length available for the company which would not interfere with private and Government stations. In other words, this was an attempt by the United States Government to prevent interference through a refusal to grant a license to a radio transmitting station.

The company argued that the Secretary had no such discretionary powers. It had in all respects complied with the requirements of the law; and so it petitioned in the Supreme Court of the District of Columbia for a writ of mandamus directing the Secretary to issue the license.

The Supreme Court of the District of Columbia granted the writ, and Mr. Hoover appealed to the circuit court of appeals, which affirmed the decision on the ground that Congress, and not Mr. Hoover, had the power to regulate the radio business. Congress had not delegated any discretion to the Secretary of Commerce, but had merely commanded him to grant the license when certain requirements had been met by the applicant. The issuance of the license was a ministerial act.

It must therefore be evident that unless some one is given power to limit the number of broadcasting stations and to distribute them over the United States that there will be so much interference and confusion that broadcasting will be of but little value to anyone.

A brief history of the development of radio, I believe, will be of some interest.

DEVELOPMENT OF RADIO

For 60 years prior to the time that Guglielmo Marconi came prominently before the people in the matter of wireless transmission various inventors were experimenting to solve the problem.

Maxwell, in 1867, saw the possibility of the existence of electrical waves. He did not, however, prove it except by mathematical deduction. It remained for Heinrich Hertz, professor of physics at Bonn University, to prove the physical being of such waves. Hertz experimented with a wire circuit which contained a spark gap. When a current was sent through this coil the pressure finally became so great that the air between the balls became highly conductive, producing a spark in the ether, which resulted in the radiation of a wave. These waves, Hertz concluded, are radiated through space in all directions by means of the ether.

The real contribution which Hertz made was the discovery of a means of detecting the presence of such radiation. He invented a simple device consisting of a turn of wire provided with a small spark gap between two metallic knobs. As this loop was held near an oscillator the waves struck it and set up impulses which revealed themselves by minute sparks at the gaps. This apparatus is called the resonator.

While Hertz did not make any practical use of his discovery, his experiments and disclosures aroused widespread interest. Other scientists took up the development of wireless. Sir Oliver Lodge was one of Hertz's disciples, and he, together with Edouard Branly, devised the coherer for the detection of electromagnetic waves. Sir William Crookes in 1892 predicted the commercial use of radio through the propagation and reception of electromagnetic waves, revealing a "new and astonishing world—which is almost within the grasp of daily life."

Thomas A. Edison developed a system of communication between railway stations and moving trains without the use of connecting wires. He took out a United States patent on this device in 1891.

MARCONI, THE COMMERCIALIZER OF RADIO

It was Marconi, however, who commercialized radio. He used or improved the oscillator of Hertz and the coherer of Lodge. He, however, inserted a Morse key in the sending apparatus, and thus cut the current into a definite system of dots and dashes. All these devices are at the present time out of date in wireless communication, but in addition Marconi contributed the grounded vertical antenna, attached to both the transmitting and the receiving apparatus, which his predecessors had not developed.

He did not discover the principles of radio. In his original application for a patent he claimed only to have made "improvements in transmitting electrical impulses and signals and apparatus therefor" by means of Hertzian waves. Marconi coordinated the principles of others, improving their operation by additional devices of his own invention, and thus made radio a commercial possibility.

In November, 1897, the first Marconi station was constructed on the Isle of Wight, off the south coast of England, from which experiments were conducted covering a range of 14½ miles. On December 6 of the same year signals were transmitted from shore to a ship at sea 18 miles distant.

The year 1897 saw the Marconi system adopted by the Italian Navy. In 1899 tests were made on a large scale by the British Admiralty, resulting in the subsequent installation of wireless on 32 warships and shore stations. On April 22, 1899, the first French gunboat was fitted with wireless telegraph apparatus; in 1899 tests were made by the United States Navy; and in the year 1900 Belgian and German shipping companies installed radio.

Likewise, radio stations were very early installed on lightships, and wireless was introduced for life-saving purposes. In 1899 the *East Godwin* lightship was damaged by collision with a steamer, and the accident was reported by wireless. On January 19, 1901, the steamship *Princesse Clementine* ran ashore, and news of the accident was flashed through the ether to Ostend. The momentous aid given by wireless in saving passengers in the collision between the steamship *Republic* and steamship *Florida* impressed upon the governments of the world the necessity of having radio on ships as a life-saving device. In rapid succession several nations passed acts requiring radio equipment and operators on certain vessels carrying more than a specified number of people. At present radio is widely used for reporting distress signals, positions of icebergs, storm and time signals, direction finding, and many other things needful for the safeguarding of life and property.

On December 12, 1901, from a balloon at St. Johns, in Newfoundland, Marconi received clicks, signifying the letter "S," which had been transmitted from England. Thus at the age of 27 Marconi had succeeded in spanning 1,800 miles of the Atlantic with a wireless message.

While Marconi was making application for his patent in London another young enthusiast, Lee De Forest, of Iowa, was

graduating from Yale University. After receiving his Doctor of Philosophy degree at Yale in 1899, DeForest obtained employment with the Western Electric Co., in Chicago, testing and assembling at $8 a week. He had followed the work of Marconi and his predecessors, and now he set about improving their methods.

Marconi had used the coherer invented by Lodge and Branly. Instead of this device, De Forest attempted to use the gas flame as a rectifier of radio currents, but with little success. In the meantime an English scientist, Dr. J. Ambrose Fleming, had taken the Edison hot and cold electrode incandescent lamp and used it for the rectification of wireless waves. (Edison in his search for the principle of the electric light had, in the course of his "trial and error" experiments, devised a two-electrode lamp. Not knowing that he had constructed a rough vacuum tube, Edison abandoned this device.) This was the so-called two-electrode audion. A patent was granted Fleming on November 7, 1905. Some time in this interval De Forest began a series of experiments upon the same principle. He added another element, the grid—making three in all, the filament, the plate, and the grid—and from 1906 to 1908 was granted several patents based on this method of reception.

Important progress had been made by Armstrong, Fessenden, Branly, Hazeltine, and many others; but it remained for the American Telephone & Telegraph Co. to make radiotelephony a commercial possibility.

The work was in charge of John J. Carty, chief engineer of the Bell system, who associated with himself some of the foremost men in the field. After a number of successful short-distance tests Mr. Carty, in the latter part of 1915, conducted an experiment which showed that wireless telephony was no longer a dream, but an accomplished fact. The words of President Theodore Vail, spoken into the telephone of his New York office, were carried by wire to the Arlington naval station near Washington, D. C., whence they were broadcast by wireless. Mr. Carty, in Mare Island, Calif., carried on a free and easy conversation with his president. It is interesting to note that a few hours later words sent on the air at Arlington were heard not only at Mare Island, but were also intercepted in Hawaii and Panama. In the same year wireless telephonic communication was established between Arlington and Paris. In 1924 wireless telephone conservation on a short wave length was carried on between Australia and England.

The World War and the years following saw a rapid growth in both wireless telephony and telegraph. Very early in the war the cables to Germany were cut, and the United States communicated with the central powers by means of wireless. The year 1918 witnessed great progress toward continuous-wave communication. This development derived impetus from the steady evolution of the electron tube as an efficient receiver and generator of undamped oscillations. Aircraft were equipped with both telephonic and telegraphic apparatus. The United States Army and Navy maintained schools for instruction and research in the art. During the war the Government undertook the operation of practically all land and ship stations. Progress was made in direction finding and submarine detection.

The first successful American attempt at radio transmission from airplane to ground was made August 27, 1910, at Sheepshead Bay, Long Island. One year later, at an aviation meet on Long Island, a wireless message was transmitted from airplane to ground over a distance of 2 miles. In the summer of 1912 radio communication was established from an Army airplane over Laurel, Md., to Washington, D. C., a distance of 25 miles. In the fall of the same year at Fort Riley, Kans., this distance was increased to 50 miles.

The inventor De Forest broadcast a program by Caruso in the Metropolitan Opera House in the winter of 1908-9. It was in 1921, 13 years later, that the first broadcasting station was licensed in the United States. This was station KDKA at Pittsburgh.

The Wireless Telegraph & Signal Co. was incorporated in England on July 20, 1897. It acquired the title to all of Marconi's patents in every country in the world except Italy and its dependencies.

In March, 1900, the name of this corporation was changed to Marconi's Wireless Telegraph Co. (Ltd.). This has been and is to-day the chief Marconi company and is sometimes referred to as the British Marconi Co.

The American Marconi Co. was formed and took over the assets of the United Wireless Co. and thereby secured a practical monopoly of the supply of apparatus and operators for radio communication in the United States.

The United Fruit Co., which was organized in 1899, came rather early into the radio field in the United States. It owns fruit and sugar plantations in Central and South America, Cuba, and a number of near-by islands. For the transportation of these products to the northern markets the company operates the famous "white fleet." These vessels are equipped not only for the carrying of bananas, the principal product, but for general freight and mail and also contain comfortable first-class passenger cabins.

It is evident that in the fruit business a rapid and reliable method of transportation and communication is necessary. The plantation managers must be notified of movements of the steamers, so that the fruit can be ready for loading immediately, so that loss through spoiling of the fruit or waste of time can be avoided. Since the numerous swamps and rivers very often precluded the use of wire, it was but natural that this company should very early develop a system of wireless, establishing stations at Boston, New Orleans (Burwood), and points in Central America, near the plantation in the Tropics, as well as aboard its vessels.

But it was difficult for the same company to carry on both a fruit and wireless business. So, in 1913, the Tropical Radio Telegraph Co. was organized to carry on the radio communication field. To manufacture and sell apparatus the Wireless Specialty Apparatus Co. was formed. The parent company owns a controlling interest in both companies. The Tropical Radio Co. has developed a number of its own radio patents and also procured rights from the American Marconi Co. and later from the Radio Corporation of America.

THE FEDERAL TELEGRAPH CO.

The Federal Telegraph Co. was incorporated February, 1911, in California, under the original name of the Wireless Development Co. This company owned stations on the Pacific coast, having recently completed four new high-powered stations in San Francisco, Los Angeles, San Diego, and Portland, Oreg. The company owned the patents of the Danish inventors, Poulsen and Pederson, together with the free and exclusive right to make use of and sell all of such inventions. The Federal Co. manufactured and sold high-powered apparatus, and also conducted radio communication between ships at sea and between the United States and the Orient. This company has been taken over by the Federal Telegraph Co. of Delaware, the majority of the stock being held by the Radio Corporation.

THE DE FOREST RADIO TELEPHONE & TELEGRAPH CO.

This company was incorporated under the laws of Delaware in 1913, as a successor of the Radio Telegraph Co. of New Jersey. It owns several audion patents. Under these patents the De Forest Co. for a time manufactured tubes, but was restrained by a United States district court. Subsequently, the De Forest Co. assigned its patents to the American Telephone & Telegraph Co., retaining for itself a personal, nontransferable right to manufacture and sell. It confined its own business to the manufacture and sale of parts used by amateurs and experimenters in assembling sets. With the expiration of the Fleming patent in 1922, the De Forest Co. resumed the manufacture and sale of vacuum tubes.

Dr. E. F. W. Alexanderson, who was employed by the General Electric Co., produced what is known as the Alexanderson alternator. This was exactly the machine which the Marconi interests wanted. So in 1915 the British Marconi Co. sent two representatives, Mr. Marconi, the chairman of the board of directors, and Mr. Steadman, the company's lawyer, to the United States to attempt, if possible, to secure the exclusive rights in this machine. A tentative agreement was drawn up contemplating the purchase by the Marconi Co. of about $3,000,000 worth of these alternators annually. Before the agreement was put into final form, Marconi was compelled to report to the colors in Italy. Subsequently, these arrangements were canceled, but both sides agreed to keep the matter open.

During the war the General Electric Co. installed an Alexanderson generator at the New Brunswick station of the American Marconi Co. Later the United States Government assumed the operation of this station. The Navy Department found that the Alexanderson system was very successful, and requested the Marconi Co. to install a more powerful machine which the General Electric was then completing. The Marconi Co. refused, and then the General Electric installed the machine at its own expense. The United States Government made extensive use of this station during the war.

After the signing of the armistice the Marconi representatives again came to the United States to negotiate for the purchase of the rights in this machine. The negotiations were practically complete when the officers of the General Electric received a request from the United States Navy to postpone closing the contract until the naval representatives had had the

opportunity for an informal discussion with them concerning the matter. The officers agreed, and on April 5, 1919, a conference took place in New York between representatives of the United States Navy and the General Electric Co.

NAVAL INTERCESSION IN INTEREST OF SERVICE TO AMERICANS

The two naval officers were Admiral Bullard, director of communications, and Commander S. C. Hooper, of the Bureau of Engineering. They argued against the sale of the machine to Marconi on the following grounds:

1. The Alexanderson alternator, which proved itself to be the best in existence, was capable of rendering a reliable transoceanic service.

2. The United States had never played an important part in cable communication. Most of the cables running to and from the United States are foreign owned and controlled. There should be in wireless a policy similar to the Monroe doctrine, by which the control of radio on the American Continent would remain in American hands.

3. The Alexanderson alternator was such a strategic device that if the General Electric Co. were to sell it to any British interests the result would be a practical monopoly by the British in the field of world communication—wireless as well as cable.

In answer to the arguments of the Navy officials, the General Electric asked, If their company did not sell to the Marconi interests, to whom should it sell? The Marconi companies were the largest purchasers of radio apparatus in the world. The General Electric had spent a considerable sum of money developing this device, and if it did not sell to the Marconi interests the value of the investment would be jeopardized. These were practical arguments.

To whom should the General Electric sell? To the Marconi Co.? That, said the Navy men, would not be desirable. To a new company organized to engage in radio communication? This, again, would not be fair to the American Marconi Co., many of whose stockholders were American citizens. Or should the General Electric go into the wireless-communication business itself and make use of its own alternator? This would not be feasible, as the normal business of the company is the building and sale of electrical apparatus. Furthermore, in this way the General Electric would be entering into competition with one of its normal customers.

ORGANIZATION OF RADIO CORPORATION OF AMERICA

It was finally decided to form a new corporation, which—in order to prevent duplication of services and to protect the present investment—should attempt to have transferred to itself the assets of the American Marconi Co. In this manner the idea of the Radio Corporation of America was conceived.

The General Electric then began negotiations with the American Marconi Co. for the transfer of the Marconi assets to the Radio Corporation of America. On November 20, 1919, the main agreement between the Radio Corporation of America and the Marconi Co. of America was signed. According to this contract the Radio Corporation of America secured an unencumbered title to all the property of the American Marconi Co. except certain "reserved assets."

The compensation took the form of stock in the Radio Corporation of America. It was also stipulated that if the Radio Corporation of America is ever taken over by the Government, except in the case of war or national emergency, the title to the transferred assets shall revert to the Marconi Co.

The Radio Corporation of America was organized October 17, 1919, and stock was issued to the General Electric Co., the Westinghouse Electrical Manufacturing Co., the American Telephone & Telegraph Co., and the United Fruit Co. in consideration of the use and sale by the Radio Corporation of apparatus made under the various patents held by these companies and cross licensing agreements were entered into between these various companies. The American Telephone & Telegraph Co. and the United Fruit Co. have since disposed of their stock in the Radio Corporation.

This cross licensing was necessary owing to the diversity of ownership of various patents. The corporation had procured certain patents from the Marconi Co., but other companies controlled patent rights which were absolutely essential for successful operation in the radio communication field.

The vacuum tube offers a good illustration. Under its Fleming patent the Marconi Co. could have manufactured a two-element tube. This patent the Radio Corporation of America now controlled. The three-element tube had been patented by Lee De Forest, who had, through the corporation bearing his name, assigned it to the American Telephone & Telegraph Co. De Forest had, apparently, never entirely abandoned the heated gas theory. He had supposed that a certain amount of air was necessary in the tube. De Forest's theory was found to be incorrect, and now the question arose as to the proper method of creating a complete vacuum in the tube.

Two men worked almost simultaneously on this problem. Doctor Langmuir invented one device which was owned by the General Electric Co. A similar improvement was devised by Arnold, of the Western Electric Co. As a result of the interference proceedings, in which both these patents became involved, a finding was made in favor of the Langmuir application, from which an appeal was taken by the Western Electric. This situation can be illustrated thus—

De Forest (3 electrode): Assigned to American Telephone & Telegraph Co.

Fleming (2 electrode): Assigned to American Marconi Co. and Radio Corporation of America.

Langmuir (method of creating vacuum): Assigned to General Electric Co.

INTERFERENCE PROCEEDING

Arnold (method of creating vacuum): Assigned to Western Electric Co.

But that is not all. A number of "construction" or "detail" patents were owned by the American Telephone & Telegraph Co. and the General Electric Co. These were all considered necessary for the successful operation of the vacuum tube. Then, again, there were patents owned by different concerns covering the character of the filament used.

This cross licensing was done at the request of the Navy Department. On January 5, 1920, A. J. Hepburn, acting chief of the Bureau of Steam Engineering, addressed the following letter to the General Electric Co.:

GENTLEMEN: Referring to numerous recent conferences in connection with the radio-patent situation, and particularly that phase involving vacuum tubes, the bureau has constantly held the point of view that all interests will be best served through some agreement between the several holders of permanent patents, whereby the market can be freely supplied with tubes, and has endeavored to point out with concrete examples for practical consideration.

In this connection the bureau wishes to invite your attention to the recent tendency of the merchant marine to adopt continuous wave apparatus in their ship installations, the bureau itself having arranged for equipping many vessels of the Shipping Board with such sets. Such installations will create a demand for vacuum tubes in receivers, and this bureau believes it particularly desirable, especially from a point of view of safety at sea, that all ships be able to procure without difficulty vacuum tubes, these being the only satisfactory detectors for receiving continuous waves.

To-day ships are cruising on the high seas with only continuous wave-transmitting equipment, except for short ranges, when interrupted continuous waves are used. Due to the peculiar patent conditions which have prevented the marketing of tubes to the public, such vessels are not able to communicate with greatest efficiency except with the shore, and therefore in case of distress it inevitably follows that the lives of crews and passengers are imperiled beyond reasonable necessity.

In the past the reasons for desiring some arrangement have been largely because of monetary considerations. Now, the situation has become such that it is a public necessity that such arrangement be made without further delay, and this letter may be considered as an appeal, for the good of the public, for a remedy to the situation.

It is hoped this additional information will have its weight in bringing about a speedy understanding in the patent situation which the bureau considers so desirable.

A similar letter is being addressed to the American Telephone & Telegraph Co., New York City.

Under the cross-licensing agreements between the Radio Corporation and the General Electric Co., the Westinghouse Electrical & Manufacturing Co. and the American Telephone & Telegraph Co., the Radio Corporation secured an exclusive divisible right to sell and use the radio devices covered by the patents involved or by any patents which the other companies may acquire until January 1, 1945. It grants to the other companies the right to make devices under all its patents. The Radio Corporation is to purchase 60 per cent of the devices needed from the General Electric Co. and 40 per cent from the Westinghouse Electrical & Manufacturing Co.

As a result of this cross-licensing the United States is the dominant factor in radio communication just as England is the dominant factor in cable communication.

To-day from its office in New York the Radio Corporation, the stock of which is and must be owned by Americans, maintains a wireless service over nearly the whole world. It communicates in Europe with Great Britain, Norway, Sweden, Germany, Poland, France, and Italy. It communicates in South America with Argentina and has stations under construction in Chile and Brazil. In the Pacific it communicates with

stations in Hawaii, Japan, and Java and is arranging for the construction of stations in the Philippines and China.

As a result of this competition the cable companies reduced their rates from 25 to 33⅓ per cent to meet the rates of the Radio Corporation.

The stock of the Radio Corporation of America is owned to-day as follows:

	Per cent
By the General Electric Co	15.68
By the Westinghouse Electric & Manufacturing Co	6.63
By individuals allied with the Westinghouse interests	9.69
By various other stockholders, approximately 33,000 in number	68.00

The claim has been made that we have a radio monopoly to-day in the United States and that special governmental machinery should be created to control the monopoly.

In my judgment we already have sufficient governmental machinery to control the situation. The Federal Trade Commission and the courts can stop any monopoly under the laws already in existence, and the Interstate Commerce Commission has full jurisdiction in the matter of rates.

We have to-day some 35 manufacturers of tubes, 350 manufacturers of sets, and 1,600 manufacturers of radio parts.

In 1925 the Radio Corporation sold about one-tenth of the radio apparatus sold in the United States.

There are many very dependable radio sets on the market to-day in addition to those made by the Radio Corporation, such as the sets made by the Crosley Radio Corporation, the Atwater Kent Manufacturing Co., A. H. Grebe & Co. In fact, the Radio Corporation is third in the sale of sets.

In the year 1925 the Radio Corporation sold over 16,000,000 tubes, of which only 1,620,640 were to equip its own sets and 15,537,446 were for sets made by other manufacturers and for replacements.

In 1925 the Radio Corporation sold tubes direct to 40 different set manufacturers—the total number of tubes sold to them being 1,363,150—or nearly as many as those sold by the Radio Corporation itself in connection with its own sets. Practically all the other manufacturers sold their sets without tubes but equipped with standard sockets for the insertion of tubes by the purchasers.

The public in the United States to-day are in a very unique position so far as radio is concerned. Anyone can make his own set and listen in on any program without charge. This is not true of any other large country.

Great Britain licenses both sending and receiving sets and collects through the British Broadcasting Co. a certain per cent on the sale price of each piece of apparatus and limits the number of broadcasting stations.

Canada, under its minister of marine and fisheries, licenses both broadcasting and receiving sets.

Australia levies a tax on receiving sets.

The listener to-day is in reality the one who has a monopoly in the United States. The future of radio depends upon the listener. If he ceases to listen sales of radio apparatus stop and in addition the station that sells its time loses its value as an advertising medium as soon as the listeners refuse to listen. Therefore, stations are anxious to please their hearers.

The CHAIRMAN (Mr. KETCHAM). The time of the gentleman from California has again expired. All time has expired. The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., (A) That it is hereby declared and reaffirmed that the ether within the limits of the United States, its Territories and possessions, is the inalienable possession of the people thereof, and that the authority to regulate its use in interstate and foreign commerce is conferred upon the Congress of the United States by the Federal Constitution. No person, firm, company, or corporation shall use or operate any apparatus for the transmission of radio energy or radio communications or signals (a) from one place in any Territory or possession of the United States or in the District of Columbia to another place in the same Territory, possession, or District; or (b) from any State, Territory, or possession of the United States, or from the District of Columbia to any other State, Territory, or possession of the United States; or (c) from any place in any State, Territory, or possession of the United States, or in the District of Columbia, to any place in any foreign country or to any vessel—

Mr. CELLER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CELLER. Must we wait until the entire section is read, or the subdivision, before offering amendments?

The CHAIRMAN. My understanding is it is to be read by sections, and we should wait until the section is read before there is any opportunity for offering amendments.

Mr. DAVIS. If the Chair please, I think it has been customary to read by paragraphs. The Chair will notice there are several different lettered paragraphs under the same section, dealing with somewhat different questions. It certainly has been the practice, as I understand it, to offer amendments after the reading of the paragraph rather than the entire numbered section.

Mr. LARSEN. I would suggest to the Chair that in the consideration of the bill we consider it by paragraphs.

Mr. LEHLBACH. Mr. Chairman, there is no rule of the House; it is a matter of practice, and the practice has almost invariably been to read bills by section unless they are appropriation bills. Appropriation bills under the practice of the House are read by paragraphs. Unless some very compelling reason should be shown for changing the ordinary usual practice, this bill, like every other bill, should be read by sections.

Mr. DAVIS. Mr. Chairman, I wish to ask unanimous consent of the committee that amendments may be permitted to be offered at the end of each lettered paragraph, and in support of that I wish to say it was agreed in our committee, as already suggested here, that there should be liberal debate on this bill. The thought was unanimously expressed in our committee that we should have a day of general debate, and the chairman was instructed to ask for one day of general debate if he saw it was necessary to introduce a resolution asking for a rule. We were confined in general debate to an hour on the side, which was wholly inadequate for such an important and complex subject; but assurance was given that there would be liberality in the matter of offering amendments, and I think it is certainly nothing but fair under all the circumstances that amendments should be permitted to be offered at least at the end of each lettered subsection of the bill.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the bill be read by the lettered paragraphs——

Mr. DAVIS. In other words, Mr. Chairman, that at line 20, on page 2, which is the end of subsection (A) of section 1, amendments may be in order.

Mr. SCOTT. Reserving the right to object, I shall adhere to the original suggestion I made to the House, but I do hope I may have the cooperation of the House in an effort to obtain an orderly and legitimate presentation of the subject. If I should acquiesce in the suggestion made by the gentleman from Tennessee, instead of having 24 sections subject to specific debate, we would have something like 75, and that would mean indefinite debate. I have no objection, when we reach the end of section 1, to a presentation of amendments in the order of the paragraphs, and if at the end of the time the gentleman feels there has not been sufficient opportunity for debate, I will stretch my liberality almost to the breaking point. I think we ought to take the bill up by sections rather than by paragraphs.

Mr. CELLER. Does not each section contain a number of phases of the subject of radio? Section 1 is not confined to any single phase.

Mr. SCOTT. I know the gentleman is interested in one particular amendment to the entire section 1, and that is the interpretation of the word "ether." The committee has never had any controversy over this section, and I do not imagine there is anything in the section that will cause much discussion. If there should be any amendments offered, I shall not attempt to curtail the discussion of such amendments, but I prophesy there will be very few amendments but a lot of unnecessary debate which will have no reference to this section.

Mr. CELLER. I think it is unfair to characterize the debate as unnecessary. There may be further amendments of which the gentleman from Michigan is unaware.

Mr. SCOTT. I was not alluding to the quality.

Mr. WINGO. Will the gentleman yield?

Mr. SCOTT. Yes.

Mr. WINGO. I would like to suggest to the chairman that the gentleman from New Jersey is correct in stating that the practice of the House is to consider a bill of this kind by sections, but I think there has been one or two instances where a bill like this, instead of using numerals or small alphabetical letters to designate the paragraphs or sections, where you have plain divisions and subdivisions indicated by capital letters, that there has been a few cases where they were considered by paragraphs. Of course, it can not be considered by paragraphs except by unanimous consent. In this case, from a hurried examination of the bill, I see that you have used the letters (A), (B), (C) where ordinarily you would have numbers. I have no particular interest in it—I have not looked it up—but my recollection is that the practice is to permit an amendment

to each substantive division. In this case I understand you have some substantive provisions designated by letters instead of having sections. If that be true, I think the gentleman had better yield, and I do not think it will take any more time.

Personally I would like to get through as quick as would the gentleman from Michigan.

Mr. SCOTT. I have such a high regard for the gentleman's opinion that, if he had read the bill carefully, especially section 1, and then recommended that such a policy be followed, I would be very much impressed.

Mr. WINGO. I will be perfectly frank with the gentleman. I have not read the bill carefully.

Mr. SCOTT. Let me say this: I will not object to the first section being read by paragraphs. I do that for the purpose of allowing the House to see what will happen. But I want it understood that I will object now to that policy being adopted as to the entire bill. So if the gentleman from Tennessee will modify his request and have it apply to section 1, which will take us the balance of the afternoon, I will not object.

Mr. DAVIS. If the gentleman wants to do that he will assume the responsibility.

Mr. SCOTT. All right, Mr. Chairman; I object.

The Clerk, proceeding with the reading of the bill, read as follows:

or (d) within any State when the effects of such use extend beyond the borders of said State, or when interference is caused by such use or operation with the transmission of such energy, communications, or signals from within said State to any place beyond its borders, or from any place beyond its borders to any place within said State, or with the transmission or reception of such energy, communications, or signals from and/or to places beyond the borders of said State; or (e) upon any vessel of the United States, or (f) upon any aircraft or other mobile stations within the United States, except under and in accordance with this act and with a license in that behalf granted by the Secretary of Commerce and except as hereinafter authorized.

(B) The Secretary of Commerce, from time to time, as public convenience, interest, or necessity requires, shall (a) classify licensed radio stations and the operators required therein; (b) prescribe the nature of the service to be rendered by each class and each station within any class; (c) assign bands of frequencies or wave lengths to the various classes of stations and assign frequencies or wave lengths for each individual station and determine the power which each station shall use and the time during which it may operate; (d) determine the location of classes of stations or individual stations (with due consideration of the right of each State to have allocated to it, or to some person, firm, company, or corporation within it, the use of a wave length for at least one broadcasting station located or to be located in such State, whenever application may be made therefor) and the kind of apparatus to be used, with respect to its external effects; (e) regulate the purity and sharpness of the emissions from each station and of the apparatus therein; (f) establish areas or zones to be served by any station; (g) from time to time inspect licensed stations and their apparatus; (h) make such regulations not inconsistent with law as he may deem necessary to prevent interference between stations and to carry out the provisions of this act: *Provided, however,* That changes in the call letters, wave lengths, authorized power, in the character of emitted signals, or in the times of operation of any station shall not be made without the consent of the station licensee unless in the judgment of the Secretary of Commerce such changes will promote the public interest, or the provisions of this act will be more fully complied with. The Secretary of Commerce shall have authority to exclude from the requirements of any regulations any radio station upon railroad rolling stock and the operators required thereon, or to modify such regulations in his discretion: *Provided,* That such stations shall not be used for sending communications or signal for hire.

(C) In time of war or of threat of war or of public peril or disaster or of national emergency or in order to preserve the neutrality of the United States, the President may cause the closing of any station for radio communication and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such station and/or its apparatus and equipment by any department of the Government under such regulations as he may prescribe, upon just compensation to the owners, and every license issued shall be subject in terms to such right.

(D) Radio stations belonging to and operated by the United States shall not be subject to the provisions of paragraphs (A) and (B) of this section. All such Government stations shall use such frequencies or wave lengths as shall be assigned to each or to each class by the President. All such stations, except stations on board naval and other Government vessels while at sea or beyond the limits of the continental United States, when transmitting any radio communication or signal other than a communication or signal relating to Government business shall conform to such rules and regulations designed to prevent interference with other radio stations and the rights of others as the Secretary of Commerce may prescribe: *Provided,* That upon proclamation by the President that there exists war or a threat of war or a state of public peril or disaster or other national emergency, the President may suspend or amend, for such time as he may see fit, the rules and regulations applicable to any or all stations within the jurisdiction of the United States as prescribed by the Secretary of Commerce, and may deal with such stations as authorized by paragraph (C) hereof. All stations owned and operated by the United States, except mobile stations of the Army of the United States, and all other stations on land and sea shall have special call letters designated by the Secretary of Commerce, and the Secretary is authorized to cause to be published such call letters and such other announcements and data as in his judgment may be required for the efficient operation of radio stations subject to the jurisdiction of the United States and for the proper enforcement of this act. Radio stations on board vessels of the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation or the Inland and Coastwise Waterways Service shall be subject to the provisions of this act.

Mr. CELLER (interrupting the reading). Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from New York makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and twenty Members present, a quorum.

The Clerk resumed and concluded the reading of section 1.

Mr. DAVIS. Mr. Chairman, I move to strike out the section. I do that for the purpose of making a statement and shall later withdraw the motion. I wish to make reply to some of the very unfair and incorrect statements made by the gentleman from California [Mr. FREE], who declined to yield to me, although he was making very unfair statements with regard to what I have said. In the first place, the purport of what the gentleman said was that this monopoly was entered into at the request of the officials of the Government. I suppose that is the inference which he desires the Members to draw. It is true that officials of the Navy requested the General Electric Co., an American corporation, not to sell to the British Marconi Co. the exclusive right to the Alexanderson machine at a time when they were negotiating with the Marconi Co. for the sale of this machine. This machine had been demonstrated in the New Brunswick, N. J., station to possess all of the requisites of a great transmitting apparatus. It had successfully operated in transmitting radiograms across the Atlantic. It was sufficient in and of itself, and certain officials of this Government, naval officers, very properly appealed to the General Electric Co. not to sell the exclusive rights to such important apparatus and patents to a foreign company. However, they negotiated with the General Electric Co. in an informal way along the line of organizing a corporation that might engage in the transoceanic radio business, and they agreed on a tentative program which involved the performance of some functions by the United States Government. It was expressly explained that it was to be submitted to the Secretary of the Navy, Mr. Daniels, for his approval. The gentleman from California said that it was stated in this report of the Federal Trade Commission that all of them, including Secretary Daniels, approved it. The contrary is true. On page 16 of the Federal Trade Commission report appears the following:

A proposed contract was worked out by the Navy Department which never became effective. The proposed contract contained a stipulation providing that the new company should be so constituted that control thereof should always remain in the hands of American citizens. Secretary Daniels at the time of the negotiations was in Europe, and the execution of it was delayed until his return. On May 23, 1919, Secretary Daniels requested officers of the General Electric Co. to meet him in Washington and discuss the contract. The Secretary stated (1) that he was in favor of Government ownership of radio, (2) he doubted his power to execute such a contract because, at best, it would be an exercise of a war power to project a peace program which he did not desire to do except with the consent of Congress.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. DAVIS. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. DAVIS. It is further stated that Congress did not pass any legislation authorizing it, so that nothing was done under that tentative program. It is further stated in the following paragraph of the report of the Federal Trade Commission that—

Certain officials of the War Department were not in accord with the officials of the Navy Department who desired to officially sanction such a company. Maj. Gen. George L. Squier is authority for the statement

that he did not believe the War Department would have taken the same stand in the matter. He also pointed out the uselessness of the Radio Corporation as a selling agent for radio apparatus when the General Electric and the Westinghouse Cos. already had efficient sales organizations.

In other words, the Secretary of the Navy refused to approve of the suggestions made, and I defy anybody to show any communication whatever from any Government officials even suggesting the creation of a monopoly or in any way monopolizing the traffic.

The gentleman from California referred to Mr. Hepburn, Acting Chief of the Bureau of Steam Engineering, and what his suggestion was as shown in the letter embraced in this report of the Federal Trade Commission.

Among other things, it was that the interests should make an arrangement for the general use of the patents "whereby the market can be freely supplied with tubes," and so forth; and on the contrary a monopoly had absolutely restricted the use of these tubes, as I would show, if I had time, and is shown in these reports. Hepburn's suggestion of a legal cross-licensing would have promoted competition and not monopoly.

Mr. BLAND. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. Yes.

Mr. BLAND. The gentleman is also aware of the statement on page 3 of the report that no such authority was granted, so that the contract never became effective, which appears in the letter of submission of the Federal Trade Commission report.

Mr. DAVIS. Yes; that is absolutely true, which is exactly contrary to what the gentleman from California said, and then the General Electric Co., together with the others, went along and created the Radio Corporation of America.

With regard to the stock of that corporation, the gentleman from California mentioned a large amount of stock that is owned by individuals generally. Yes; but the members of this monopoly own a large majority of all of the common stock, and the common stock is all that has the right to vote.

Mr. FREE. That is not true. All of the stock votes. There is another misstatement of the gentleman.

Mr. DAVIS. You are the only one not telling the truth. And if the Members of this House will read the report and the hearings, they will see who is telling the truth on these propositions.

Now, one thing further. I have to pass over these things hurriedly. Why, the gentleman from California [Mr. FREE] says that this report of the Federal Trade Commission said that the Radio Corporation of America was not in a monopoly, as I understood him. On the contrary, the Federal Trade Commission report not only says that they are in a monopoly, not only filed a complaint against them because they were in a monopoly, but truthfully said the Radio Corporation of America practically admitted that they were in a monopoly, and in fact they did admit it in the hearings.

During the hearings on the radio bill in the last Congress David Sarnoff, vice president and general manager of the Radio Corporation of America, appeared before the Committee on the Merchant Marine and Fisheries, and during the course of his testimony the following occurred:

Mr. DAVIS. You have given it as your opinion that the international radio service is a natural monopoly and should be?

Mr. SARNOFF. Yes.

* * * * * * *

Mr. DAVIS. Have you objection to the Government regulating international radio, so far as this country is concerned?

Mr. SARNOFF. None whatever.

Mr. DAVIS. Or fixing rates?

Mr. SARNOFF. None whatever.

Mr. FREE. Mr. Chairman, I rise to oppose the amendment. I suggest that every Member here get a copy of the report of the Federal Trade Commission and see how inaccurate the gentleman from Tennessee is in his statements. Let me read a letter from A. J. Hepburn, Acting Chief of the Bureau of Steam Engineering of the Navy, written to the General Electric Co. and to the American Telephone & Telegraph Co. on January 5, 1920, as a result of which letter these cross licenses came. The letter is as follows:

GENTLEMEN: Referring to numerous recent conferences in connection with the radio-patent situation and particularly that phase involving vacuum tubes, the bureau has constantly held the point of view that all interests will be best served through some agreement between the several holders of permanent patents whereby the market can be freely supplied with tubes, and has endeavored to point out with concrete examples for practical consideration.

In this connection the bureau wishes to invite your attention to the recent tendency of the merchant marine to adopt continuous-wave apparatus in their ship installations, the bureau itself having arranged for equipping many vessels of the Shipping Board with such sets. Such installations will create a demand for vacuum tubes in receivers, and this bureau believes it particularly desirable, especially from a point of view of safety at sea, that all ships be able to procure without difficulty vacuum tubes, these being the only satisfactory detectors for receiving continuous waves.

To-day ships are cruising on the high seas with only continuous-wave transmitting equipment except for short ranges, when interrupted continuous waves are used. Due to the peculiar patent conditions which have prevented the marketing of tubes to the public, such vessels are not able to communicate with greatest efficiency except with the shore, and therefore in case of distress it inevitably follows that the lives of crews and passengers are imperiled beyond reasonable necessity.

In the past the reasons for desiring some arrangement have been largely because of monetary considerations. Now the situation has become such that it is a public necessity that such arrangement be made without further delay, and this letter may be considered as an appeal, for the good of the public, for a remedy to the situation.

It is hoped this additional information will have its weight in bringing about a speedy understanding in the patent situation which the bureau considers so desirable.

A similar letter is being addressed to the American Telephone & Telegraph Co., New York City.

Now, there is an appeal from the Navy Department to these people to do what they did for the protection of our ships at sea.

Mr. APPLEBY. Mr. Chairman, gentlewomen, and gentlemen, the situation existing in the radio broadcasting field was brought to my attention by several letters of complaint. In fact, in Mr. Hoover's office there are 1,300 complaints against one station, WJZ, Boundbrook, N. J. It is due to a lack of radio jurisdiction by the Secretary of Commerce under existing law that this bill has been reported out and its passage necessary.

In order to discuss the matter thoroughly, I think it is best to have a definition of the much-discussed word "ether," so I will read from page 21 of the hearings before this committee as the best evidence of a prominent scientist. Secretary Hoover said that—

the ether was that which was left in a vacuum tube after everything has been pumped out.

Mr. CELLER. If the gentleman will yield, what does that mean?

Mr. APPLEBY. That means that this is the best definition of ether to-day by a man most qualified to know, Secretary Hoover.

Mr. CELLER. Like a bunghole without a barrel?

Mr. APPLEBY. Prohibition does not go with this speech. [Laughter.]

The State of New Jersey has several broadcasting stations in its limits and has been unable to regulate the conditions caused by this one station, station WJZ. It has been broadcasting, according to a hearing before Secretary Hoover, which I had the honor to conduct, with 40,000 watts, which is considerably in excess of most broadcasting strength.

Mr. ACKERMAN. Will the gentleman yield?

Mr. APPLEBY. Yes.

Mr. ACKERMAN. Will not the gentleman state that that station is known as 2XAR, Boundbrook?

Mr. APPLEBY. And also WJZ. It is really not known who owns it, because the State of New Jersey sent to Congress a petition and mentioned the Radio Corporation or General Electric both as owners, and it is in dispute as to who actually owns the station at the present time.

Mr. ACKERMAN. It is known as 2XAR in New Jersey.

Mr. O'CONNELL of Rhode Island. Will the gentleman yield?

Mr. APPLEBY. If I were yielded a little more time.

Mr. O'CONNELL of Rhode Island. I would be glad if I could.

Mr. APPLEBY. Another thing, the Secretary of Commerce can not regulate broadcasting in New Jersey or any other State at the present time, due to a lack of existing laws and under this proposed bill sufficient authority will be delegated to him. Station WEAF, situated in New York City, broadcasts with 5,000 watts and has a very good reception, and I can not see why this one station can take eight times the power to broadcast, where at the present time other stations are using one-eighth of the power.

You can easily see that radio is going to be an important subject in the next 10 years, and there are 64 good broadcasting wave lengths. Another thing is important, that the Secretary of Commerce is now proceeding against broadcasting stations which have usurped the wave length of another station. But he can not at the present time, due to existing

laws, prosecute that offending station. If this bill is passed—and I trust it will—it would grant him sufficient authority to deal with all radio subjects. One of my colleagues from New Jersey has an amendment which he will offer shortly, and I trust it will be accepted. I may state that inasmuch as the most powerful broadcasting station in America is in my district, and I have received a great many complaints against its excessive broadcasting strength, that the Secretary of Commerce will be able to modify its broadcasting when this bill becomes a law. [Applause.]

Mr. DAVIS. Mr. Chairman, I withdraw the motion that I made.

Mr. BLACK of Texas. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. BLACK of Texas. Mr. Chairman, it is often complained that the Government of the United States is a very complex affair with its numerous bureaus, commissions, boards, and departments; and truly it is. I am one who thinks that we already have too many bureaus and commissions, and that some could be profitably abolished, and I very reluctantly vote for the creation of any more. Yet I realize that we must deal with new conditions as new conditions arise. Only a very few years ago the radio was unknown, and now, as I gain from reading the minority views of our colleague, the gentleman from Tennessee [Mr. DAVIS], there are in the United States alone 436 broadcasting stations.

Mr. DAVIS. Five hundred and thirty-six.

Mr. BLACK of Texas. Yes; I am corrected. It is 536. And last year $450,000,000 was spent in the United States in the purchase of radio apparatus. Therefore we have evidently reached that point in the development of the industry where some regulation is needed in the public interest. I dare say that no other industry in all the annals of time has developed so rapidly as this radio industry. Each evening millions of people sit in their homes and listen to all sorts of programs, from jazz to grand opera, from humorous anecdotes to sacred truths told from the pulpit.

Now, sound regulation is designed not to operate the industry by the Government, but to point out the things it may not do in disregard of the public interest. So the inquiry, as we address ourselves to the different provisions of this bill, will be whether or not these different sections meet that test, and if any particular section does not measure up to it, then we ought either to amend it or strike it out.

Now, I am very much in accord with the suggestion of our colleague from Tennessee [Mr. DAVIS] that there ought to be set up a separate commission consisting of as many as five men as a permanent commission to regulate not only radiocommunication but to regulate telegraphs and telephones, in so far as interstate business is concerned, and have all these under one division.

Mr. LARSEN. Mr. Chairman, will the gentleman yield there?

Mr. BLACK of Texas. Yes.

Mr. LARSEN. Is the gentleman aware of the fact that the committee in considering this bill considered that very question and decided that it did not have jurisdiction to report such a bill?

Mr. BLACK of Texas. Yes; I so understood.

Mr. LARSEN. Is the gentleman in favor of singling out radio?

Mr. BLACK of Texas. I understand that the gentleman's committee does not have jurisdiction over telegraph and telephone lines. That jurisdiction is vested by law in the Interstate Commerce Commission. But I was making the observation that I think it will be a wise thing ultimately to do, if we can not do it at the present time, to put all electric communication, either by wire or wireless, under the jurisdiction of one commission and not have a divided responsibility, as we have now.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. BLACK of Texas. Mr. Chairman, may I have five minutes more?

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BLACK of Texas. Now, the reason why I make that suggestion is simply this: Every Member of this House knows that the Interstate Commerce Commission, if it deals properly with transportation, with the 250,000 miles of railroads that we have in the United States, has got all that it possibly can do if it adequately deals with that subject.

Mr. LARSEN. The question that I propounded to the gentleman and which I would like him to answer is, Would he be in favor of such a proposition as that at this time to handle the radio proposition, with all this machinery, organization, salaries, and all?

Mr. BLACK of Texas. I do not know what the salaries will be.

Mr. LARSEN. The gentleman said the project as proposed by the gentleman from Tennessee [Mr. DAVIS].

Mr. BLACK of Texas. In principle I favor the proposition. I think it is a logical thing to do. If an amendment is offered for that purpose, I am ready to support it.

Mr. LARSEN. The gentleman admitted that it would not be in order.

Mr. BLACK of Texas. I am arguing the proposition on its merits and not from the standpoint of parliamentary law.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. BLACK of Texas. Yes.

Mr. DAVIS. In that general connection attention ought to be called to the fact that if this bill passes the House it will go to the Senate committee, which has jurisdiction over radio and telegraphs and telephones, and that that committee would have jurisdiction extended so as to give it jurisdiction over wireless and telegraphs and telephones.

Mr. BLACK of Texas. Yes; that is true. I am sure that all of us believe that the subject of radio is just in its infancy, and that the development of it will be one of the marvelous developments of the future. If we are to enter upon the field of governmental regulation, let us do so early enough so as to avoid some of the mistakes made in regulating transportation by rail.

Mr. BLAND. Mr. Chairman, will the gentleman yield?

Mr. BLACK of Texas. Yes.

Mr. BLAND. Does not the gentleman believe that any extra expense would be entirely justified in order to have a real commission, rather than to have a buck-passing commission?

Mr. BLACK of Texas. I believe so, provided, of course, the expense is reasonable. I believe that an executive department of the Government already having various other matters to deal with, like the Department of Commerce, ought not to be vested with powers such as those which the Secretary of Commerce is vested with in this particular bill. I have high respect for Secretary Hoover, and my advocacy of a permanent commission to deal with this matter is through no lack of confidence in his executive ability.

Now, Mr. Chairman, in conclusion, let me say that there are those of us who sigh for the "good old days" when there was not so much Government regulation, but we will have to remember that we are living in the electrical age and this age calls for new methods.

In 1776 we were thirteen separate and distinct Colonies.

In 1926 we are 48 United States. In 1776 we were 3,000,000 people. In 1926 we are around 115,000,000 people, with a national wealth estimated as high as $350,000,000,000. In 1776 we traveled by coach and horseback over rough wilderness roads. In 1926 we have 250,000 miles of railroad lines and miles and miles of concrete public highways over which an endless procession of automobiles is traveling day and night. In 1776 we were a wilderness folk and our letters were sent by messengers on foot. In 1926 we have chained the continents together, making the seas vast whispering galleries, and have girdled our country with millions of miles of telegraph and telephone wires, and we have the happenings of the world over the radio.

It has been a marvelous record of progress, one never before equaled in the history of the world. It has been achieved by American initiative, energy, and ability. Let us not allow that initiative to be destroyed, either by too much Government regulation or the grasping selfishness of private monopoly. If we will keep the channels of competition open and free in American business, then the genius of our people for initiative and hard work will do the rest. [Applause.]

Mr. MOORE of Virginia. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Virginia is recognized for five minutes.

Mr. MOORE of Virginia. I think that perhaps nearly everybody in the House recognizes the importance of legislating on this subject. But I think that everybody should recognize the importance of so legislating as not to vest undue authority in any body, or to locate undue authority anywhere and run the risk of perpetuating or creating monopoly.

A good deal has been said already about the checks that are provided because of the jurisdiction given to the Interstate Commerce Commission. I believe that in the very outset we ought to be fair with ourselves and recognize that the Interstate Commerce Commission has no effective jurisdiction now

and is not likely to have any in the future. The business of regulating communications by wireless is mentioned in the act to regulate commerce, but up to this time there has been no exercise of that jurisdiction and there is no prospect there will be. No one who is familiar with the situation in the commission will dissent from the statement that the commission is now so submerged with other business as to make it impossible for it to take hold of this intricate subject with which we are dealing. Even if that were not true, I find that this bill seems to do away in a rather sweeping manner with the authority of the Interstate Commerce Commission.

The commission, under the statute controlling it, can declare that a practice of a radio company is unreasonable, but what becomes of that declaration or order? Turning to page 10 we find that the order is certified to the Secretary of Commerce and he is not compelled thereby to revoke a license which has been granted, but the entire matter is put up to him for the purpose of review. If he decides that the Interstate Commerce Commission has acted unfairly or mistakenly, then he can decline to revoke the license of the offending party.

Let anyone read the language from subsection F, on page 10, through the proviso, on page 11, to see what is contemplated.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. MOORE of Virginia. Mr. Chairman, I ask for three minutes additional.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent to proceed for three additional minutes. Is there objection?

There was no objection.

Mr. MOORE of Virginia. So I ask such fair-minded men as my friend from Maine [Mr. WHITE] if it is not true that whatever the Interstate Commerce Commission may do in ascertaining that some rate or some practice is unreasonable, that after that matter is put up to the Secretary of Commerce the Secretary of Commerce can act as he pleases. Now, all through the bill it is found that just such great authority is conferred upon the Secretary, with more opportunity given by this bill, I think, than any bill I have heard considered here, to preserve or permit monopoly.

Mr. Chairman, I am not here for the purpose of criticizing the present Secretary of Commerce. I know how active he is in the public service, and I have great personal regard for him. But my thought is that in legislating we should lose sight of personalities and should enact only such legislation as may prove what is needed not only to-day and to-morrow but in the future, and that if the opposite course is taken harmful results are apt to follow.

Mr. CELLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. CELLER: Page 1, strike out lines 3 to 7, inclusive, and line 8 to the word "no," and insert the following:

"That it is hereby declared and reaffirmed that the authority to regulate the transmission of radio energy or radio communications or signals within the limits of the United States, its Territories, and possessions, in interstate and foreign commerce, is conferred upon the Congress of the United States by the Federal Constitution."

Mr. CELLER. In that amendment, Mr. Chairman, I seek to clearly define what shall be the jurisdiction of the United States over radio. I think the House should try to keep away from anything that might have a tendency to stultify us, because if you leave the bill as originally drafted you say to the world that the people of the United States shall have the inalienable possession of the "ether" of the United States. I asked a moment ago what "ether" was, and I repeat that I am sure no man within the hearing of my voice or beyond the hearing of my voice can tell me what ether really is. In physical science, I am told by the Standard Dictionary—and they only describe it and never define it—that it is:

A supposed medium filling all space through which, in the form of transverse wave motion, radiant energy of all kinds, including light waves, is propagated. This medium, whose existence most modern authorities consider to be established, is thought to be more elastic than any ordinary form of matter and to exist throughout all known space, even within the densest bodies. Electric and magnetic phenomena can be explained as due to strains and pulsations in the ether.

If that description is correct, ether is in everything, in this desk, in this room, in our own bodies, and in our own homes. Now, can we say, in all common sense, that the ether, which is so pervading, so transcendental, and so intangible, shall belong to the people of the United States?

I have here a book entitled "Principles Underlying Radio Communication," issued by the Signal Corps of the United States. If you go through the pages that speak of the propagation of electromagnetic waves in radio—and that chapter covers any number of pages—you will find that they very deliberately and carefully avoid the use of the word "ether."

I asked Doctor Dellinger, of the Bureau of Standards, why it was that the Signal Corps, that branch of the Army that had to do with radio, left out the word "ether" in its publication—they leave it out of the entire book of over 600 pages. He tells me they leave it out because it is so indefinable, because so little is known about it, and yet we foolishly rush in where angels fear to tread and we say that the "ether" shall be the property and possession of the United States. In my amendment I simply say this: Let us regulate the sending of radio messages or let us regulate everything that has to do with electromagnetic waves in radio, but do not say that we own that medium through which these waves travel, because we do not know what this medium, this ether, really is.

Mr. LARSEN. Will the gentleman yield?

Mr. CELLER. Yes.

Mr. LARSEN. Does the gentleman find anything in the bill which says that we own it?

Mr. CELLER. It says it shall be in our possession; in the possession of the people.

I might give you this analogy: You have a stream in your district, a river; you might regulate the navigation on that stream, but you can not for one minute say the people own the bed of the river or that the people own the bed or riparian rights of the river. It may be in the possession of the sovereignty of the States or the title of that river, its bed, its sides, or its riparian rights may be in the abutting owners, but you can not say the people own that river or the bed of it, yet the people may regulate the use of the river.

Mr. McKEOWN. Will the gentleman yield?

Mr. CELLER. Yes.

Mr. McKEOWN. Does the gentleman realize that under the common law the owner of the surface owns up to the sky?

Mr. CELLER. Yes; from the center of the earth to the dome of the sky; that is true. That is sound common law. It is the law of our land. Mr. Chairman, I seriously press my motion and ask its consideration by this committee.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. BOWLING and Mr. WHITE of Maine rose.

Mr. BOWLING. Mr. Chairman, I move to strike out the last word.

Mr. WHITE of Maine. Mr. Chairman, I desire recognition in opposition to the amendment.

Mr. BOWLING. I move to strike out the last word, Mr. Chairman.

The CHAIRMAN. The gentleman is out of order for the present. There is an amendment pending upon which the gentleman from Maine, a member of the committee, has been recognized.

Mr. WHITE of Maine. Mr. Chairman and gentlemen of the committee, just a brief word about this language to which the gentleman from New York [Mr. CELLER] objects. The history of it is this: It was not in the bill of last year as originally introduced. It is language taken from a bill passed by the legislative body at the other end of the Capitol. It was adopted by the House Committee on the Merchant Marine and Fisheries, I think, in deference to the opinion expressed by that other body that it was sound in law and wise in principle.

Mr. CELLER. Will the gentleman yield?

Mr. WHITE of Maine. Just let me finish first.

Now, so far as a definition of ether is concerned, I think it is true that no court has undertaken to define ether. I think it is also true that if you went to the scientists and undertook to get a definition you would get a different one from every man you approached, but I think in practical, everyday affairs there is a common understanding. I think we all understand that it is the medium through which these electric waves pass. I can not define it any more closely than that, and I doubt if anyone else can do any better. I can see no possible harm in the language, and I think it is entirely proper it should remain in the bill.

Mr. CELLER. Will the gentleman yield?

Mr. WHITE of Maine. Yes.

Mr. CELLER. The gentleman is aware, of course, that Major Mauborgne, of the Army, appeared before the committee and cautioned the committee in the following language:

And I just submit this at this time as a word of caution, and I think that considerable legal talent should be put upon this subject of how far we can say that we own the ether in the vicinity of the United States.

He further called attention to the fact that we might get into international complications if we put this language in the act.

The CHAIRMAN. The time of the gentleman from Maine has expired. The question is on the amendment of the gentleman from New York [Mr. CELLER].

The question was taken; and on a division (demanded by Mr. CELLER) there were—ayes 8, noes 75.

So the amendment was rejected.

Mr. LEHLBACH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New Jersey offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LEHLBACH: On page 2, line 19, after the word "granted," insert the words "under this act."

Mr. LEHLBACH. Mr. Chairman, I introduce the amendment in behalf of my colleague from New Jersey [Mr. EATON], who at this point was unavoidably called from the Chamber. The purpose of the amendment is to make certain that the licenses which must be obtained under the terms of this act in order to engage in the business of radio communication must be the licenses provided for in this act and not licenses heretofore granted and held by people. The introducer of the bill, and as far as I know, the members of the committee reporting the same, have no objection to the amendment.

Mr. SCOTT. Just a moment, Mr. Chairman. I would like an opportunity to examine the amendment.

The CHAIRMAN. Does the gentleman from Michigan desire recognition?

Mr. SCOTT. Yes; I have not seen this amendment before.

Mr. WINGO. Mr. Chairman, while the gentleman is examining the amendment, I move to strike out the last word, which will give him an opportunity to look into it.

Mr. Chairman, I did not catch the reading of the amendment which the chairman of the committee is now examining. If it has not more substance in it than the declaration that is made in subdivision A of the first section of the bill, I do not think it will hurt the bill any to put it in.

I always admire my friend from Maine [Mr. WHITE]. When he takes the floor he is always very candid, he is always very courteous, and I was really interested in seeing how he was going to defend such palpable bunk as this first paragraph. I listened to him very closely. He would make a great diplomat. He spoke for five minutes and all on earth he said in a substantive way was that the language was the product of senatorial incubation, and then he sat down.

I hope the gentleman from New Jersey has proposed something more substantial than that. I would like to ask the gentleman from New Jersey just what his amendment does and where it comes in.

Mr. LEHLBACH. The gentleman from New Jersey will be glad to state that the language is that no person shall use or operate any apparatus for the transmission of radio energy or radio communications or signals, except under and in accordance with this act and with a license in that behalf granted by the Secretary of Commerce.

Now, there are licenses in existence that have been granted for the sending of radio communication, but this act provides in detail how licenses in the future are to be granted, and the terms upon which they are to be granted, and what restrictions and limitations with respect to such licenses are to be prescribed. This amendment merely makes certain that the licenses that are granted are the licenses referred to in this act and not some previously obtained licenses.

Mr. WINGO. Will the gentleman give me this information: As I understand it, licenses that have already been issued continue, regardless of what is done under this bill?

Mr. LEHLBACH. It is to make certain that each present holder of a license makes application and has his right to continue in the business examined de novo that this amendment is offered.

Mr. WINGO. In other words, you propose to revoke all outstanding licenses by this act?

Mr. LEHLBACH. We want to prevent a class of licenses outside of this act.

Mr. WINGO. I agree with the gentleman fundamentally, but do you mean by your amendment to revoke all licenses and require a new application?

Mr. LEHLBACH. It does not revoke licenses, because this act does not take effect until four months after its approval. During that time those who hold licenses can continue to use them; and if they will make application, they will be considered with the new applications that may come in, and when the act is in full effect they will become a part of the licenses issued.

Mr. WINGO. That is what I had in mind. The bill will undertake to cover the entire question of existing licenses that will be outstanding four months after the bill goes into effect.

Mr. LEHLBACH. The gentleman is absolutely correct.

Mr. NEWTON of Minnesota. I would like to ask the gentleman from New Jersey if this is a committee amendment?

Mr. LEHLBACH. It is not a committee amendment. It was prepared by my colleague from New Jersey [Mr. EATON]. I submitted it to the chairman of the committee and such Members as it was possible to reach, and they are all in accord with it.

Mr. NEWTON of Minnesota. What would be the situation in reference to a license held by some one who had invested a great deal of money in it, giving good service? It occurs to me that the proposed amendment would be an invitation for some one to try and get the same wave length and the same license and the whole thing, notwithstanding his investment.

Mr. LEHLBACH. The gentleman speaks as though the present holder of the license had a vested interest in it, and that is what we want to prevent.

Mr. NEWTON of Minnesota. He ought to have more interest than those who start out anew.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. LEHLBACH].

The question was taken, and the amendment was agreed to.

Mr. BLANTON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amendment offered by Mr. BLANTON: Page 5, line 24, after the word "act," strike out the period, insert a colon, and add the following additional proviso: *"And provided further*, That any person who, over any radio, shall, affecting the character and standing of another, use derogatory language, which, under the laws of any State into which such language is transmitted constitutes (a) slander or (b) libel were such language in writing, shall constitute (1) the offense of criminal slander, which may be prosecuted either in the State from which such language was broadcast, or in any State into which such language was transmitted, and upon conviction, said offender shall be punished by a fine of not less than $100 and not more than $1,000, or by confinement in jail for a term not less than 30 days and not more than one year, or by both such fine and imprisonment; and (2) civil slander, for which the person aggrieved may make the offender respond in appropriate damages, under the measure of damages prevailing in such State."

Mr. LEHLBACH. Mr. Chairman, I make a point of order against the amendment.

Mr. BLANTON. Will the gentleman withhold it?

Mr. LEHLBACH. I will reserve the point of order.

Mr. BLANTON. Mr. Chairman, I concede that at this juncture the amendment would be out of order, but I want to introduce it so that it can be printed in the RECORD, and I would like for my colleagues to consider the question between now and to-morrow noon, so that by the time we reach the paragraph at which point the amendment will be in order they will have arrived at some decision concerning it. There should be some such provision in this bill. The night before election in any district in the United States serious damage could be done to any candidate for Congress. That alone should appeal to you. Damage may be done to any citizen. Serious damage could be done to any candidate for President of the United States or to the governor of any State just before election. I listen almost nightly to programs in Cuba. I hear once in a while a program from the metropolitan city of Dallas, Tex., in my home State, nearly 2,000 miles away. Some one in St. Louis or Kansas City might absolutely cover my State with a radio message that could damage seriously individuals or candidates for office or business enterprises. How are the people of New Jersey going to hold responsible the people of New York, who may damage them in their personal standing and character and in their business in the transmission of radio messages, unless you have some kind of a controlling statute on this matter?

Mr. JOHNSON of Texas. Will the gentleman yield?

Mr. BLANTON. Yes.

Mr. JOHNSON of Texas. I did not quite understand the language of the gentleman's amendment; there was so much confusion when it was read; but does the jurisdiction vest in the State courts or the Federal courts?

Mr. BLANTON. In the Federal courts, because this is a Federal question, for radio transmission is across State boundaries. The question of radio is a Federal question. When I can sit in my home in Washington and hear programs in Cuba or Dallas, Tex., or Florida, that makes it a Federal question. I listen to Florida frequently, and I hear the programs of other States, to which I listen while I am at work.

Mr. McKEOWN. Will the gentleman yield?

Mr. BLANTON. Yes.

Mr. McKEOWN. Is not it now practically covered by the legislation of States as far as those States are concerned?

Mr. BLANTON. No; it is not. Let me ask this: Suppose I were in Dallas, Tex., and broadcast across the line of Texas into Oklahoma a speech that affected the gentleman from Oklahoma [Mr. McKEOWN], how is he going to reach me either in Dallas, Tex., or in Oklahoma?

Mr. McKEOWN. How do we reach a man who puts it in a newspaper in St. Louis that has circulation in Oklahoma?

Mr. BLANTON. Because that publication is libel, but a radio message through the air is not now libel, either in Texas or Oklahoma.

Mr. McKEOWN. The gentleman knows that there are cases pending now over this radio situation.

Mr. BLANTON. Where there is a publication in a newspaper or in writing the publication is a libel under the law of every State of the Union, but a broadcast message over the radio sent from one State across the line into another is not a libel and is not a slander for which one can hold a party responsible either criminally or in civil damages.

Mr. McKEOWN. That question is pending in the courts now. Would the gentleman not think an amendment ought to be made to this bill to require the filing with the commission here of all of these broadcasters, the people who own the broadcasting stations?

Mr. BLANTON. Yes; each station should furnish such identities. Let me say this in conclusion: I am putting this amendment in the RECORD to-night for the consideration of the committee. I hope the committee will give the subject careful study. They ought to have a proper amendment in this bill covering this subject. They are not doing their duty by the people of the United States if they do not do that and protect the people against improper attacks over the radio. I want each member of the committee to study carefully my amendment in the RECORD in the morning and help me to perfect it and to pass it. The committee in charge of the bill should accept it.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. SCOTT. Mr. Chairman, will the gentleman kindly obtain more time?

The CHAIRMAN. Does the gentleman from New Jersey insist upon his point of order?

Mr. BLANTON. Mr. Chairman, it is so seldom that a chairman of a committee desires me to have more time that I ask unanimous consent for three minutes additional.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. Yes.

Mr. SCOTT. The reason I wanted the gentleman to get additional time is to possibly further the purpose he seeks to accomplish. If the vote is taken now I imagine that the gentleman's amendment would be defeated, but the amendment does appeal to me.

Mr. BLANTON. Let me state this to the gentleman: If my amendment is not the proper amendment, I suggest to the gentleman that he and his committee assist in reframing one that will be proper. If he will put the proper amendment in the bill at the proper place, I believe that he will find there are enough Members interested in the matter to vote it in. I have talked to quite a number of Members about the subject.

Mr. SCOTT. The gentleman has anticipated me and prevented me from saying in substance what he has already said. I do not know that the gentleman has fully covered the subject. The suggestion the gentleman makes has sufficient merit to appeal to me and my fear is that if the gentleman presses his amendment at this time and it is subject to the point of order——

Mr. BLANTON. I concede that it is subject to the point of order, and I offered it to-night merely for information. It will have to be ruled out now on the point of order, but I will offer it again to-morrow.

Mr. SCOTT. And if it be ruled out now I am wondering whether or not that would estop its presentation at another point.

Mr. BLANTON. Oh, no; I will offer it at another point in the bill where it will be germane and in order.

Mr. LEHLBACH. Mr. Chairman, I insist upon the point of order.

Mr. BLANTON. I concede that it is subject to the point of order.

The CHAIRMAN. The Chair sustains the point of order. The Clerk read as follows:

SEC. 2. (A) Paragraph (A) of section 1 of this act shall not apply to any person, firm, company, or corporation sending radio communications or signals on a foreign ship while the same is within the jurisdiction of the United States, but such communications or signals shall be transmitted only in accordance with such regulations designed to prevent interference as may be promulgated by the Secretary of Commerce.

(B) The station license required hereby shall not be granted to, or after the granting thereof such license shall not be transferred in any manner, either voluntarily or involuntarily, to (a) any alien or the representative of any alien; (b) to any foreign government, or the representative thereof; (c) to any company, corporation, or association organized under the laws of any foreign government; (d) to any company, corporation, or association of which any officer or director is an alien, or of which more than one-fifth of the capital stock may be voted by aliens or their representatives or by a foreign government or representative thereof, or by any company, corporation, or association organized under the laws of a foreign country.

The station license required hereby, the frequencies or wave length or lengths authorized to be used by the licensee, and the rights therein granted shall not be transferred, assigned, or in any manner, either voluntarily or involuntarily, disposed of to any other person, firm, company, or corporation without the consent in writing of the Secretary of Commerce.

(C) The Secretary of Commerce, if public convenience, interest, or necessity will be served thereby, subject to the limitations of this act, may grant to any applicant therefor a station license provided for in sections 1 and 2 hereof.

In considering applications for licenses and renewals of licenses, when and in so far as there is a demand for the same, the Secretary of Commerce shall make an equitable distribution of licenses, bands of frequency or wave lengths, and of power among the different zones established in section 9 of this act, and shall apply the same principle as between applicants from the different States and communities within each of said zones.

No license granted by the Secretary of Commerce shall be for a longer term than five years, and any license granted may be revoked as hereinafter provided. Upon the expiration of any license the Secretary of Commerce, upon application therefor, may grant from time to time renewals of such license for a term not to exceed five years.

The Secretary of Commerce is hereby directed to refuse a station license and/or the permit hereinafter required for the construction of a station to any person, firm, company, or corporation, or any subsidiary thereof, which has been found guilty by any Federal court of unlawfully monopolizing or attempting to unlawfully monopolize after this act takes effect radio communication, directly or indirectly, through the control of the manufacture or sale of radio apparatus, through exclusive traffic arrangements, or by any other means. The granting of a license shall not estop the United States or any person aggrieved from prosecuting such person, firm, company, or corporation for a violation of the law against unlawful restraints and monopolies and/or combinations, contracts, or agreements in restraint of trade, or from instituting proceedings for the dissolution of such firm, company, or corporation.

The Secretary of Commerce in granting any license for a station intended or used for commercial communication between the United States or any Territory or possession, continental or insular, subject to the jurisdiction of the United States, the Canal Zone, or the Philippine Islands, and any foreign country, may impose any terms, conditions, or restrictions authorized to be imposed with respect to submarine-cable licenses by section 2 of an act entitled "An act relating to the landing and the operation of submarine cables in the United States," approved May 24, 1921.

(D) The Secretary of Commerce may grant station licenses only upon written application therefor addressed to him, which application shall set forth such facts as he by regulations may prescribe as to the citizenship, character, and financial, technical, and other qualifications of the applicant to receive a license and to operate the station; the ownership and location of the proposed station and of the stations, if any, with which it is proposed to communicate; the frequencies or wave lengths and the power desired to be used; the hours of the day or other periods of time during which it is proposed to operate the station; the purposes for which the station is to be used; and such other information as he may require. The Secretary of Commerce, at any time after the filing of such original application and during the term of any such license, may require from an applicant or licensee further written statements of fact to enable him to determine whether such original application should be granted or denied or such license revoked. Such application and/or such statement of fact shall be signed by the applicant and/or licensee under oath or affirmation.

(E) Such station licenses as the Secretary of Commerce may grant shall be in such general form as he may prescribe, but each license shall contain, in addition to other provisions, a statement of the following conditions to which such license shall be subject: (a) The ownership or management of the station or apparatus therein shall not be transferred in violation of this act; (b) there shall be no vested property right in the license issued for such station or in the frequencies or wave lengths authorized to be used therein; and (c) neither the license nor

the right granted thereunder shall be assigned or otherwise transferred in violation of this act.

(F) Any station license granted by the Secretary of Commerce shall be revocable by him for false statements either in the application or in the statement of fact which may be required by paragraph (D) hereof, or because of conditions revealed by such statement of fact which would warrant the Secretary of Commerce in refusing to grant a license on an original application, or for failure to operate substantially as set forth in the license, for violation of or failure to observe any of the restrictions and conditions of this act, or any regulation of the Secretary of Commerce authorized by this act or by the provisions of any international radio convention ratified or adhered to by the United States, or whenever the Interstate Commerce Commission, or any other Federal body in the exercise of authority conferred upon it by law, shall find and shall certify to the Secretary of Commerce that any licensee bound so to do has failed to provide reasonable facilities for the transmission of radio communications, or has made any unjust and unreasonable charge, or has made or prescribed any unjust and unreasonable classification, regulation, or practice with respect to the transmission of radio communications or service: *Provided*, That no such order of revocation shall take effect until 30 days' notice in writing thereof, stating the cause for the proposed revocation, has been given to the parties known by the Secretary of Commerce to be interested in such license. Any person in interest aggrieved by said order may make written application to the Secretary of Commerce at any time within said 30 days for a hearing upon such order, and upon the filing of such written application said order of revocation shall stand suspended until the conclusion of the hearing herein directed. Notice in writing of said hearing shall be given by the Secretary of Commerce to all the parties known to him to be interested in such license 20 days prior to the time of said hearing. Said hearing shall be conducted under such rules and in such manner as the Secretary of Commerce may prescribe. Upon the conclusion hereof the Secretary of Commerce may affirm, modify, or revoke said orders of revocation.

Whenever the Interstate Commerce Commission or other Federal body under authority of law, shall find that any licensee bound so to do has failed to provide reasonable facilities for the transmission of radio communications or has made any unjust and unreasonable charge, or has made or prescribed any unjust and unreasonable classification, regulation, or practice with respect to the transmission of radio communications or service, it shall certify such finding to the Secretary of Commerce.

(G) All laws of the United States relating to unlawful restraints and monopolies and to combinations, contracts, or agreements in restraint of trade are hereby declared to be applicable to the manufacture and sale of and to trade in radio apparatus and devices entering into or affecting interstate or foreign commerce and to interstate or foreign radio communications. Whenever in any suit, action, or proceeding, civil or criminal, brought under the provisions of any of said laws or in any proceedings brought to enforce or to review findings and orders of the Federal Trade Commission or other governmental agency in respect of any matters as to which said commission or other governmental agency is by law authorized to act, any licensee shall be found guilty of the violation of the provisions of such laws or any of them, the court, in addition to the penalties imposed by said laws, may adjudge, order, and/or decree that the license of such licensee shall, as of the date the decree or judgment becomes finally effective or as of such other date as the said decree shall fix, be revoked and that all rights under such license shall thereupon cease: *Provided, however*, That such licensee shall have the same right of appeal or review as is provided by law in respect of other decrees and judgments of said court.

Mr. DAVIS. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Page 8, line 3, strike out the word "guilty" and the word "of" and insert after the word "court" the following: "or the commission to have been."

Mr. DAVIS. Mr. Chairman, if my amendment be adopted the language would then read:

which has been found by any Federal court to have been unlawfully monopolizing or attempting to unlawfully monopolize—

And so forth.

My reason for offering to strike out the word "guilty" is that that word undoubtedly carries with it the idea of a conviction in a criminal case, whereas there may be either a criminal prosecution or a civil action under the antimonopoly laws. I am sure it was not the intention of the committee to restrict it to a conviction under a criminal indictment, but that the action in refusing the license should be predicated upon a finding that the applicant was in fact monopolizing or attempting to monopolize the radio industry.

Mr. WHITE of Maine. Mr. Chairman, will the gentleman please again state exactly what his amendment is?

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

There was no objection; and the Clerk again reported the amendment.

Mr. DAVIS. Mr. Chairman, there is another feature to it in addition to that to which I have called attention. I assume that there will be no objection to striking out the word "guilty" and making the change so as to cover an adjudication whether it be under a civil action to dissolve an alleged monopoly or under a criminal indictment; but on the subject of the commission, this bill, even in its present form, has established a commission and conferred upon it certain powers. It occurs to me that if this commission in the hearing before it should determine that a certain company was violating the antimonopoly laws in this particular, and should certify that fact to the Secretary of Commerce, that in itself should be sufficient reason why that applicant should be refused a license, at least until the applicant should purge itself of its unlawful affiliations and connections and conduct.

Mr. LARSEN. Will the gentleman yield?

Mr. DAVIS. I will.

Mr. LARSEN. If you are going to say "commission," had you better not use the full name of the commission, "the Federal radio commission"?

Mr. DAVIS. I wish to state to my colleague the bill itself already says that the Federal radio commission is herein referred to as the "commission," and all through the bill it refers to it as the commission, and there can not be any question about it. Now I wish further to call the attention of the members of the Committee of the Whole to the fact that in the bill the committee unanimously reported in the Sixty-seventh Congress and which passed the House and died at the other end of the Capitol, and also in the bill which the committee unanimously reported in the Sixty-eighth Congress, was incorporated the following provision, which was carried as section 2 (c) in those two bills:

SEC. 2. (c) The Secretary of Commerce is hereby directed to refuse a station license to any person, company, or corporation, or any subsidiary thereof, which in his judgment is unlawfully monopolizing or seeking to unlawfully monopolize radio communication, directly or indirectly, through the control of the manufacture or sale of radio apparatus, through exclusive traffic arrangements, or by any other means.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. DAVIS. Mr. Chairman, I ask for five additional minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. DAVIS. I want to inform the committee in both instances, the House in one instance, were willing to leave that matter in the determination of the Secretary of Commerce alone, but the Secretary of Commerce appeared before the committee in the last Congress and objected to that authority being conferred upon him because he stated it was a quasi-judicial function that ought not to be conferred upon any administrative official, and consequently he objected to assuming that responsibility.

Now, out of deference to his request, I assume, when the bill was introduced in the present Congress, instead of providing that the Secretary of Commerce himself could refuse to grant a license under those circumstances, it amended that section by providing that the Secretary of Commerce is directed to refuse to grant a license only when and after a Federal court shall have found the applicant guilty of violating the laws against a monopoly, and so forth.

Mr. McLAUGHLIN of Michigan. Will the gentleman yield?

Mr. DAVIS. I will.

Mr. McLAUGHLIN of Michigan. Suppose a person, firm, or corporation has been found guilty and the license is taken away. Can that person or corporation hereafter purge itself of contempt and remove the difficulties under which it was laboring and then later receive a license?

Mr. DAVIS. I wish to state to the gentleman that if this amendment I have proposed is adopted, I have another amendment which provides that the license shall not be issued to the applicants found guilty until the commission shall find that they have purged themselves and certified that fact to the Secretary of Commerce.

Mr. McLAUGHLIN of Michigan. The gentleman knows of a somewhat parallel case where the Prohibition Department of our Government revoked a license for the manufacture of near beer, or when they are purported not to be manufacturing in accordance with the law, and the director, or whatever his title is, assumes thereafter that the application of the company whose license is revoked never can be considered favorably.

Mr. DAVIS. Well, I wish to say this. If we are going to breath some life into this commission and give them a chance to determine the applicant who is violating the antimonopoly laws of the United States, I am in favor also of authorizing them to hear and determine whether an applicant has purged himself and certify that he is entitled to a license. But right now I am interested more in protecting the interests of the public than I am in protecting the interest of the law violator, and under the existing law——

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. DAVIS. Mr. Chairman, I think this is a very important matter. I ask for two additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DAVIS. Under the law as it exists, in the very nature of things if this bill passes in this present form the Secretary of Commerce will reissue licenses to members of a monopoly, and it will be an authority to them to continue to violate the laws of the United States. I say they should be required to come in with clean hands and at least purge themselves of unlawful actions before this Government issues a license to them and throws the mantle of its protection around them. I do not think that is asking too much, and if in two Congresses we were willing to leave it to one man to determine whether they were monopolizing the radio interests, and to refuse to issue to them a license, why not turn this over to a commission to be appointed by the President and confirmed by the Senate? I think that is an authority and responsibility that should be conferred upon them, and at the same time change that word "guilty" so that it will apply to civil cases as well.

Mr. WHITE of Maine. Mr. Chairman, I rise in opposition to the amendment. Before I express that opposition I want to ask the gentleman from Tennessee [Mr. DAVIS] a question. He said he would offer another amendment. Will he tell us at this time what that other amendment is? Is it to this particular paragraph?

Mr. DAVIS. Yes. It comes on page 8, line 8, after the word "means": Strike out the period and insert in lieu thereof a semicolon and the following:

That no license shall so be granted to such firm, company, or corporation found to be so offending, unless in the opinion of the commission such firm, company, or corporation shall have fully desisted from such unlawful practice and conduct, and such fact has been certified to the commission by the Secretary of Commerce.

That seems to be fair to me.

Mr. WHITE of Maine. The fear I have as to the amendment of the gentleman from Tennessee is that it will make this provision retroactive. I have no objection to imposing a penalty on anybody hereafter guilty of violating a statute of the United States, but I think it is unwise in legislation and unfair in practice to pass laws now reaching back into offenses that occurred in the past. I would change that provision in the act.

Mr. DAVIS. I do not change that provision in the act. If you will examine page 8, lines 4 and 5, you will see the language "after this act takes effect." In other words, if this amendment that I have proposed is adopted it will read as follows:

Which has been found by any Federal court or the commission to have been unlawfully monopolized or attempted unlawfully to monopolize after this act takes effect.

Mr. FREE. Mr. Chairman, will the gentleman yield?

Mr. WHITE of Maine. Does not that provide "if found guilty"? It is retroactive.

Mr. DAVIS. No; I do not change that feature at all. I knock out the word "guilty" and insert the word "commission."

Mr. WHITE of Maine. If the gentleman will change the words "to have been" to the words "to be," I will subside.

Mr. DAVIS. I want to ask the gentleman this: Suppose that a court should adjudicate the question; and if your language is to be taken literally, would it not be necessary to show that at the time of the commencement of the suit, at that particular time, they were violating the law? It occurs to me that it is entirely sufficient for it to have been any time after this act becomes a law and before action is instituted, and that the Government ought not to be confined to a particular moment in proving that that is true.

Mr. WINGO. Mr. Chairman, will the gentleman yield?

Mr. WHITE of Maine. Yes.

Mr. WINGO. If the Government should bring an action charging a violation of the antitrust law against a corporation or group of corporations, would not the Government be bound to the allegation that it was a monopoly at the moment the suit was filed? If the Government conceded that they had abandoned the monopoly, what would be the status of the suit and where would the Government stand? It would go out of court, would it not?

Mr. DAVIS. I will state to the gentleman that I do not believe a suit would be instituted where a monopoly had existed and which monopoly had been abandoned.

Mr. SCOTT. Mr. Chairman, I rise in opposition to the amendment.

Mr. WINGO. Will the gentleman yield so that I may ask the gentleman from Tennessee a question?

Mr. SCOTT. Yes.

Mr. WINGO. I would like to ask the gentleman from Tennessee this question: As I understand, the gentleman has raised the question that if a concern has been a monopoly prior to the time the suit is brought, but not at the time the suit is brought, the Government can maintain an action?

Mr. DAVIS. No. For instance, I want to call the gentleman's attention to the fact that these monopolies have at different times in the past entered into written contracts, and it was upon that action that the complaint of the Federal Trade Commission was based—that is, a complaint of monopoly; there had been acts all along, and perhaps they were continuing. Now, I do not think that when it comes to the question of proof it should devolve upon the Government to prove that all of these unlawful acts have continued or existed right down to the moment of the filing of the suit.

Mr. WINGO. If the Government showed that at some time prior they were engaged in an unlawful continuing conspiracy, would not that then shift the burden of proof upon the defendants to show that they had abandoned the unlawful conspiracy and that it no longer existed?

Mr. DAVIS. I am not so sure about that. In order to accede to the suggestion of the gentleman from Maine [Mr. WHITE], how would this suit? Insert the words "to be after this act takes effect."

Mr. SCOTT. If the gentleman will pardon me, I think the question the gentleman raised a moment ago really strikes at the very heart of this proposition. In other words, there are at the present time a number of complaints pending before various commissions charging a violation of the monopoly laws. Now, there can not be any question, as a legal proposition, but what conviction on those charges subsequent to the adoption of this act would make those corporations liable under its provision. Now, there is one other thing I wish the gentleman would consider in connection with his amendment.

Mr. WINGO. Before the gentleman proceeds, he does not mean they would be liable under this act in the way of any criminal penalty? We could not change the penalty by this act?

Mr. SCOTT. Oh, no; that is true; but they would be liable to any obligations imposed by this act in connection with the reissuance of the license.

Mr. WINGO. In other words, if they are convicted of a charge that is now pending and convicted after this act becomes effective, then that conviction would have the effect of barring them the same as if the prosecution had commenced after the act had become effective?

Mr. SCOTT. That is the point exactly. The other thing which I think the gentleman should keep in mind in connection with his amendment—and I have doubted whether it would work in accord with his expectation—is the insertion of the words "or the commission."

I fear the gentleman is interpreting or is attempting to put into the bill language in regard to a commission that really is not the commission he intends to refer to in his amendment. I may be wrong about that.

Mr. DAVIS. Will the gentleman yield?

Mr. SCOTT. Yes.

Mr. DAVIS. In the first place, I want to state I intend to offer an amendment to broaden the commission that is already established in the bill; but even if we do not do that, I think it is absolutely inevitable that this commission, if it amounts to anything at all, will perform some functions worth while, and this is one function I think it ought to perform. It is absolutely in accord with the suggestion of Secretary Hoover, who said:

I am in sympathy with the idea, but it ought not to be imposed upon an administrative officer.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. SCOTT. Mr. Chairman, I ask for five additional minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. O'CONNELL of Rhode Island. Will the gentleman yield so that I may ask a question of the gentleman from Tennessee [Mr. DAVIS]?

Mr. SCOTT. Yes.

Mr. O'CONNELL of Rhode Island. I would like to ask the gentleman whether his interpretation of his amendment is that taking it in connection with appeals that are provided from the commission in other sections, that there would be an appeal from the decision of the commission finding the parties guilty of monopoly, or whether it would be the same situation as exists when the Federal court has found them guilty of monopoly, namely, that no appeal would lie in that case.

Mr. DAVIS. The law grants an appeal from the Secretary of Commerce, as you say, to the commission, upon the granting or the refusal to grant a license or the revocation or refusal to revoke a license. Suppose that during the hearing of that application this commission should find to its satisfaction that this company should not be considered as entitled to a license because it was violating the laws of the United States against monopoly and should certify that fact to the Secretary of Commerce, I think that certainly ought to be sufficient to warrant refusal until they come in afterwards and satisfy the commission they have desisted from those practices.

Mr. O'CONNELL of Rhode Island. Then that is different from all other cases, because in all other cases it is provided in the act that from the decision of the radio commission there is an appeal to the Court of Appeals of the District of Columbia.

Mr. DAVIS. Oh, yes.

Mr. O'CONNELL of Rhode Island. But you do not intend there shall be any appeal in this case?

Mr. DAVIS. The bill already provides an appeal from any action or decision of the commission to the court of appeals on a question of law.

Mr. SCOTT. That is not the proposition you are applying here, and that is the regrettable thing about it.

Mr. O'CONNELL of Rhode Island. I want to find out from the gentleman from Tennessee whether he intends by his amendment that there shall be an appeal from the commission, as provided in all other cases, or that this shall be an exception and in this particular case and under this particular section there shall be no appeal, but that it shall be final, the same as a decision of the Federal court. That is what I am trying to find out.

Mr. LEHLBACH. If the gentleman will permit, I would like to call the attention of the gentleman from Tennessee to the fact that when an application for a license is made the Secretary, or the commission, if he refers it to the commission or if it goes to the commission on appeal, acts on that application, and other parts of the bill deal with this question as well as all other questions as to the fitness of the applicant to receive a license. But this is not that case and we are not legislating in this particular paragraph on that subject. We are legislating here that if there exists a previous adjudication from another body, a Federal court, that the persons have been guilty, then the Secretary exercises no discretion, but is forbidden to grant a license; but whether he or the commission should examine whether practices violative of monopoly laws exist or not is taken care of elsewhere. This is simply where there has been an adjudication and the persons have been found guilty.

Mr. SCOTT. Yes; that is already taken care of in another place in the bill and has no proper place here.

Mr. DAVIS. It is taken care of after conviction.

Mr. GARRETT of Tennessee. May we not have the vote on the amendment go over until to-morrow?

Mr. SCOTT. Yes. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MADDEN, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee, having had under consideration the bill (H. R. 9971) for the regulation of radio communications, and for other purposes, had come to no resolution thereon.

SERVICE COMPENSATION

Mr. GREEN of Iowa. Mr. Speaker, I ask unanimous consent that I may be permitted to file a report on the bill making certain amendments to the adjusted service compensation act at any time before midnight to-night. I will say that I doubt very much whether I will be able to file it.

Mr. GARRETT of Tennessee. Will not the gentleman make that request in the morning? I notice that he doubts whether he can file it to-night.

Mr. GREEN of Iowa. I will explain why I make the request. I had a copy of the bill put in the box of all Members, and I think there was a memorandum put along with it that the reports could be obtained at the committee room to-morrow morning, and unless I can file it to-night they will not be able to obtain it. However, I am seriously afraid that I will not be able to file it to-night.

Mr. GARNER of Texas. The gentleman does not intend to take the bill up within three or four days, does he?

Mr. GREEN of Iowa. Yes; I hope to take it up Monday under suspension of the rules.

Mr. GARNER of Texas. Why is it necessary to pass it under suspension of the rules?

Mr. GREEN of Iowa. The gentleman will understand that I do not care to go into that matter now. My request is not very important, because I doubt whether I will be able to file it to-night.

Mr. GARRETT of Tennessee. I do not exactly understand why this consent should be given now. I do not wish to be put in the attitude of standing in the way of legislation.

Mr. GREEN of Iowa. I know the gentleman is always courteous and intends to be now. Mr. Speaker, I will withdraw my request.

Mr. BLANTON. Mr. Speaker, may I ask the gentleman from Iowa a question? I would like to ask the gentleman whether or not in the proposition which he hopes to bring up under suspension the committee has adopted the splendid recommendation made by our chairman of the Committee on Appropriations when he testified on March 3?

Mr. GREEN of Iowa. I do not know what the gentleman alludes to.

Mr. BLANTON. I hope the gentleman will look it up before he brings in the measure.

BRIDGE BILLS

Mr. DENISON. Mr. Speaker, there are several bridge bills on the Speaker's table which I desire to call up and concur in the Senate amendments if the Chair will recognize me for that purpose.

Mr. BEGG. Are they all bridge bills?

Mr. DENISON. Yes; with Senate amendments. I may state that these bills are all unobjected to. The amendment was placed in the bills by the Senate and are all the same in each case and have been agreed upon between the committees of both Houses.

Mr. BEGG. Is it an amendment I see in the newspaper by Senator BINGHAM that before the War Department issues a permit it must have the approval of the State highway?

Mr. DENISON. Oh, no; the substance of the amendment is that when the War Department approves of the plans and specifications of the bridge in the interest of navigation it shall approve the plans and specifications as to the volume and weight of traffic that will pass over the bridge. That is in the interest of the safety of the public. I will ask unanimous consent that the amendments be approved of en bloc.

The SPEAKER. The gentleman from Illinois asks unanimous consent to take from the Speaker's table the bridge bills, with Senate amendments, and concur in the Senate amendments, which the Clerk will report.

The Clerk read the titles, as follows:

H. R. 8316. An act granting the consent of Congress to the State Highway Commission of the State of Alabama to construct a bridge across the Coosa River near Wetumpka, Elmore County, Ala.

H. R. 8382. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River near Aliceville on the Gainsville-Aliceville road in Pickens County, Ala.

H. R. 8386. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across Elk River on the Athens-Florence road between Lauderdale and Limestone Counties, Ala.

H. R. 8388. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tennessee River near Scottsboro, on the Scottsboro-Fort Payne road in Jackson County, Ala.

H. R. 8389. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tennessee River near Whitesburg Ferry on Huntsville-Lacey Springs road between Madison and Morgan Counties, Ala.

H. R. 8390. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River near Jackson on the Jackson-Mobile road between Washington and Clarke Counties, Ala.

H. R. 8391. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River on the Butler-Linden road between the counties of Choctaw and Marengo, Ala.

H. R. 8463. An act granting the consent of Congress to the construction of a bridge across the Red River at or near Moncla, La.

H. R. 8511. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River near Gainesville on the Gainesville-Eutaw road between Sumter and Green Counties, Ala.

H. R. 8521. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River near Childersburg on the Childersburg-Birmingham road between Shelby and Talladega Counties, Ala.

H. R. 8522. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River near Fayetteville, on the Columbia-Sylacauga road, between Shelby and Talladega Counties, Ala.

H. R. 8524. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across Pea River near Samson on the Opp-Samson road in Geneva County, Ala.

H. R. 8525. An act granting the consent of Congress to the highway department of the State of Alabama to reconstruct a bridge across Pea River near Geneva on the Geneva-Florida road in Geneva County, Ala.

H. R. 8526. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Choctawhatchee River on the Wicksburg-Dalesville road between Dale and Houston Counties, Ala.

H. R. 8527. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across Pea River at Elba, Coffee County, Ala.

H. R. 8528. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River on the Clanton-Rockford road between Chilton and Coosa Counties, Ala.

H. R. 8536. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tennessee River near Guntersville on the Guntersville-Huntsville road in Marshall County, Ala.

H. R. 8537. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River near Pell City on the Pell City-Anniston road between St. Clair and Calhoun Counties, Ala.

H. R. 9095. An act to extend the times for commencing and completing the construction of a bridge across the St. Frances River near Cody, Ark.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection, and the amendments were concurred in.

ADJUSTED SERVICE COMPENSATION

Mr. BLANTON. Mr. Chairman, I ask unanimous consent that I may extend my remarks in the RECORD in connection with a discussion on the recommendations that the chairman of the Committee on Appropriations [Mr. MADDEN] made before the Committee on Ways and Means on this bill, which the chairman states he is to call up under suspension of the rules next Monday. I want to discuss the testimony of the chairman of the Committee on Appropriations.

The SPEAKER. The gentleman from Texas asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. BLANTON. Mr. Speaker, the distinguished gentleman from Iowa [Mr. GREEN], chairman of the Ways and Means Committee, has just given notice that on next Monday, under suspension of rules, he expects to pass the bill amending certain provisions of the World War adjusted compensation act.

There are two provisions in that bill that under no circumstances should be passed by Congress. And under no circumstances should such bill be called up for passage under suspension of rules, for in such case there would be no opportunity whatever to amend it in any particular. We would have to vote for it just as the bill reads or else vote against the entire measure. We could not change it in the slightest particular. We could not change the dotting of an "i" or the crossing of a "t." Four hundred Congressmen might be in favor of all of the bill except the two provisions I will name, and they might all be against these two provisions, yet they would either have to pass the bill embracing the two vicious provisions or else defeat the bill which carried all provisions except two favored by them. That is a most unfair position in which to place the House of Representatives. If this bill is called up at all, it ought to be called up under the general rules of the House, so that there will be an opportunity to properly amend it and to eliminate the two vicious provisions.

WARNING TO COLLEAGUES

I am now discussing this matter in the RECORD, so that all of my colleagues may know about it before Monday, when it is to be called up. If called up under suspension, there will be but 20 minutes' debate against the bill, and that will not be sufficient time to then acquaint our colleagues of its nature.

ABOLISHING THE COMPTROLLER GENERAL OF THE UNITED STATES

Those of us who have been on the watch know full well that for months, and even years, there has been a studied, organized attempt by certain officers in the United States Army and certain officers in the United States Navy to get their appropriations, embracing hundreds of millions of dollars, away from the audit and supervision of the Comptroller General of the United States, who will not permit them to pay out any sum, large or small, unlawfully. The Comptroller General of the United States makes the officers in the Army comply with the law. And the Comptroller General of the United States makes the officers of the Navy comply with the law. And they are mad. And in every way possible they have been trying to get rid of the Comptroller General. Bill after bill the Army officers have brought into the Sixty-seventh and Sixty-eighth Congresses to remove the ban which the Comptroller General had placed upon their unlawful payments, and to let them pay in spite of the Comptroller General. And when each such bill was passed, I protested against it. And bill after bill have the officers of the Navy brought into the Sixty-seventh and Sixty-eighth Congresses to get rid of the adverse ruling made by the Comptroller General, and to let them pay out money unlawfully in spite of the Comptroller General, and in each case when Congress passed same, I protested that Congress was gradually clipping the wings of the Comptroller General, until soon, if we continued it, his office would be of little value to the people.

COMPTROLLER GENERAL AS VALUABLE AS BUDGET BUREAU

The Bureau of the Budget maps out expenditures so that they may be kept within our revenues. It tells Congress just how much it can expend without increasing taxes. The Comptroller General then sees to it that all expenditures are made according to law and that no money is paid out unlawfully. Thus it may be readily seen that he is of just as much value to the taxpayers as is the Budget Bureau.

COMPTROLLER GENERAL RESPONSIBLE ONLY TO CONGRESS

When Congress created the office of Comptroller General of the United States it made him responsible to no power except to Congress. Because of this the Comptroller General is unafraid of big Army officers, and he is not abashed in the presence of big naval officers. When they try to pay out money unlawfully he tells them that they can not do it. It naturally makes them mad, and it naturally makes some few Congressmen mad who are good friends of these officers. It is a sympathetic madness.

COMPTROLLER GENERAL'S GOAT ABOUT TO BE GOTTEN

At last, it seems, these Army and Navy officers are about to get the goat of the Comptroller General, for in this bill which Chairman GREEN has given notice that he will call up Monday under suspension has in it a provision that, if passed, will no longer permit the Comptroller General to stop unlawful payments which the officers of the Army or the officers of the Navy or the officers in the Veterans' Bureau may want to pay out when they have no authority of law for it.

For such bill provides that final and conclusive authority is conferred on the Secretary of War and on the Secretary of the Navy and on the Director of the United States Veterans' Bureau in all matters arising under their respective jurisdictions.

This is just what the Army has been striving for during the past two years. This is just what the Navy has been striving for during the past two years. And to do this will cost the American taxpayers millions and millions of dollars each year, for any Member who has made a close study of the splendid work accomplished by the Comptroller General, J. R. McCarl, knows that he has saved millions for the Government and is saving huge sums of money each year.

JUST AS WELL ABOLISH THE OFFICE

If we pass this vicious provision in this bill, we had just as well abolish the office of the Comptroller General of the United States. The question is, is Congress willing to do that? Are we so unmindful of the interests of the taxpayers? Do we want to turn the Army and the Navy loose and let them spend their several hundred millions of lump-sum appropriations without any check up whatever?

MAHOGANY FURNITURE CASE

All of us will remember that ridiculous mahogany furniture case. Where officers in Virginia bought so many fine mahogany dressers at $200 each, and so many mahogany chiffoniers at $200 each, and so many fine mahogany chifforettes at $200

each, and so many fine mahogany other pieces of furniture at $200 each, and when the Comptroller General held that all of same was unlawful, and would not let the money be paid, they tried to pass a special bill through this Congress, but it was not passed. And I am afraid, that even yet, some of our Virginia colleagues who were friends of said Virginia officers have not yet forgiven the Comptroller General for stopping these payments.

MUST PRESERVE THE COMPTROLLER GENERAL

I appeal to our colleagues that we must preserve intact the office of the Comptroller General of the United States. We must not let this provision in this bill pass. We must not abolish this valuable office that saves so much money for the people. If this bill is called up under general rules, where we can amend it, let us amend it and strike out this vicious provision. If the bill is called up under suspension, when we can not amend it, then let us vote against the bill and stop its passage, and then force the committee to take this vicious provision out of it. Every brave ex-service man in the whole United States will commend us for thus protecting their Treasury.

SECOND VICIOUS PROVISION

The second vicious provision in the bill which we should eliminate, in accord with the splendid recommendation made by our chairman of the Committee on Appropriations [Mr. MADDEN], is the attempt in this bill to cancel lawful debts which are due the United States. Let me quote some of the testimony which Hon. MARTIN B. MADDEN gave before the Ways and Means Committee on the 3d day of March, 1926:

EXCERPTS FROM TESTIMONY OF MARTIN B. MADDEN

Mr. MADDEN (continuing). If I may, I would like to say that this intensive study by the Comptroller General and the Committee on Appropriations on the obligations due to the Government by various people for overpayments and for other reasons has been made, first, because the law imposes that duty on the Comptroller General; next, because the committee insists that everybody who owes shall pay.

Shipments have been made by various departments of the Government from time to time of large quantities of supplies over various railroads without reference to what the rates should be. The Comptroller General's office, in checking up and auditing the accounts of the payments later, has found that in many instances large overpayments had been made to the railroads. Does anybody deny that he is obligated to recover these overpayments, and should objection be made because of the efforts of the Comptroller General to collect the amounts due the Government?

Mr. BACHARACH. Have you any idea, Mr. MADDEN, how much——

Mr. MADDEN. Yes; it amounts to millions in the aggregate since the Budget has been in force. And we have that same thing going through all the departments of the Government. Of course, the Comptroller General is denounced because he is following out the law, which never had been followed out prior to his appointment.

AMOUNTS TO MILLIONS

Thus you will see that your chairman of the great Committee on Appropriations tells you that concerning overpayments to railroads alone the Comptroller General has recovered millions of dollars for the taxpayers and caused same put back into their Treasury. And Chairman MADDEN says that "Of course, the Comptroller General is denounced because he is following the law, which was never followed before."

FURTHER EXCERPTS FROM MARTIN B. MADDEN

Mr. MADDEN. I will be very glad to tell you what I know about the matter. A good many complaints, of course, have come to all the Members of Congress, I suppose, about deductions and about the activity of the Comptroller General in protecting the Treasury, and complaints have come to me about some things in connection with his action, charges made to the effect that he made deductions for losses of implements of war, say, and under the jurisdiction of soldiers on the other side; but there is not any truth in that statement, because the Comptroller General has been very anxious not to impose any unjust burden on the man who fought in the war; but he has made deductions for things that I consider quite proper, and that he must make if he is going to carry out the obligations that are imposed upon him by the law, whether they are charges against a veteran or anybody else; and there ought not to be any reason why a veteran should not pay the Government the just obligations it has against him any more than that you or I or anybody else should not pay our obligations.

So I called the Comptroller General up—well, before I say that I will just say that we try to keep—I do—in close touch with the Comptroller General on all this class of cases, whether it applies to veterans or to business men, bankers, or citizens generally, because we both conceive that we have the responsibility not to let the Treasury be raided by anybody, and the tendency is to try to raid it. I do not say this in an offensive sense, you know, but the tendency on the part of a great many people is not to think that an obligation to the Governnment is one that should be regarded sacredly.

So I called the Comptroller General up with respect to these claims, and I am going to read what he said in reply. This letter is dated February 27, 1926:

"In compliance with your telephone request of yesterday, as it was understood, I will endeavor to make clear the procedure that has been followed by this office in the matter of effecting collection of amounts determined to be due the United States from those entitled to the benefits of the World War adjusted compensation act of May 19, 1924, to indicate the nature of the indebtedness generally involved, and to suggest such language as an amendment to the basic law as would, if enacted, make possible a procedure whereby instead of making the deduction in connection with the issuance of the certificate the amount of the indebtedness would be indorsed on the certificate for adjustment when any payment is to be made under the certificate."

Now, I would like to explain that. The practice has been that if a veteran owes the Government $100, say, as the result of an overpayment, or as a result of a deduction from his pay for any just cause, that they would indorse this $100 on the certificate when issued and allow interest, say, on only $400 of a $500 certificate. Now, that would result in a 20-year period in making the aggregate of the certificate only $1,200, whereas if it was a $500 certificate it would be $1,500; and he has suggested a provision in the matter that you are considering of allowing the indorsement of $100 on the back of the certificate, or the face of the certificate, as the case may be, to be deducted at the end of the period without charging him any interest and allowing the total interest on the aggregate; that is, on the face of the certificate.

Mr. OLDFIELD. Making it $1,400 instead of $1,500?

Mr. MADDEN. No; make it $1,500, but out of which the $100 would be taken.

Mr. HAWLEY. You mean he puts a charge on the back of the certificate noting that that amount is due?

Mr. MADDEN. Yes. In other words, the Government is not going to charge, if his suggestion is adopted, interest on the indebtedness of the soldier, whereas it will be paying interest on the Government's indebtedness to the soldier.

Mr. COLLIER. Do I understand now, Mr. MADDEN, that the practice is that as we are giving the soldier compound interest on this amount that we have also been charging him compound interest?

Mr. MADDEN. That is the practice that was about to be instituted.

Mr. MILLS. It has been instituted.

Mr. MADDEN. Well, it may have been instituted.

Mr. MILLS. As to all of the certificates that have been issued.

Mr. MADDEN. I think that is right.

Now, then, he says:

"You are fully aware, of course, that this office is required by law to superintend collection of all balances found to be due the United States in the settlement and adjustment of public accounts, and that the duty of this office is clearly such as to require a withholding of any money otherwise payable to a debtor until the indebtedness has been adjusted."

Of course, there is not any escape from that. There ought not to be any escape from it, I will say.

"It being the duty and responsibility of this office to determine questions as to the availability of appropriated funds for any proposed use, it was determined in Fourth Comptroller General, 422, that funds appropriated for payments authorized by the act of May 19, 1924, were subject to application to indebtedness certified to be due the United States—no exemption from such indebtedness appearing in the basic law or otherwise, and thereafter the procedure followed was such that after an indebtedness had been definitely ascertained it was reported to the Director of the Veterans' Bureau for deduction from any amount found to be due the debtor, and in general deduction of the amount so certified was made, I am informed, from the amount of the service credit ascertained to be due to the veteran involved. It is realized that the effect of this procedure as to deducting the indebtedness from the service credits operates to save to the United States the same interest on the veteran's indebtedness as the law gives to the veteran on the amount otherwise due him under the terms of the enactment.

SUGGESTION AS TO LEGISLATION

Now, the following is what Mr. MADDEN and the director suggested as to legislation:

Mr. MADDEN. Now, this suggestion that he makes for the legislation was made in consultation with me, and I am going to present the language for you gentlemen to consider and to do what you please with it:

"To change this, in line with your suggestion, so that instead of making the deduction in connection with the issuance of the certificate, the amount of the indebtedness will be indorsed on the certificate and be for deduction from amounts hereafter to become due thereon, unless earlier adjusted by payment or otherwise, it would appear desirable if not necessary, to change the basic law, and I believe this

could best be accomplished by adding a provision to section 308 thereof, so that the section when amended, will read as follows:

"SEC. 308. No sum payable under this act to a veteran or his dependents, estate, or any beneficiary named under Title V, no adjusted-service certificate, and no proceeds of any loan made on such certificate shall be subject to attachment, levy, or seizure under any legal or equitable process, or to National or State taxation."

That is the law as it stands.

"*Provided, however,* That any amount certified to be due from the veteran to the United States shall not be deducted in connection with the issuance of the certificate so as to reduce the face value thereof, but shall be indorsed on the veteran's adjusted-service certificate and be for adjustment when any payment is to be made thereunder, unless previously adjusted."

That seems to me to make it very clear, and it is just to the Government, and certainly just to the veteran, if he owes the money, and that is what I want to get at now, because charges of all kinds have been made as to the methods employed to embarrass veterans by compelling them to pay so-called "obligations" that should not be charged against them, whereas there has been no such practice. There is not a word of truth in those charges. Then he continues:

"To give you some idea of the nature of the indebtednesses developed by this office in the settlement and adjustment of public accounts, I am listing below a number of items just as they developed. There has been no effort to select or exclude items of any particular class. For that reason these items should furnish what I understand is desired by you—a fair sample of the indebtednesses involved.

"The following were found indebted by reason of failure to deduct for war-risk insurance premiums and allotments."

That is, for example, allotments, if a man was in the service and he made an allotment to his wife or to his mother or to any dependent at home, the Government also added an equal amount to that allotment, and the Government failed to deduct from his pay the allotment which he himself made, and that is the charge that is being made in this case that I am just calling your attention to.

Mr. COLLIER. Where the Government failed to deduct them and had paid it?

Mr. MILLS. Where he received the full pay without deduction.

Mr. MADDEN. That is it. Now, we have got the items here and the names of the men.

Mr. MILLS. Let us have them.

Mr. GREEN. They can be put into the record.

Mr. BACHARACH. This is what occurred. The American Legion people absolutely stated that these fellows had to pay for pistols and things of that kind. That was the charge.

Mr. OLDFIELD. That is what influenced us here, too.

Mr. MADDEN. Well, of course, that is not so.

OF COURSE THAT IS NOT SO

Now, it is Mr. MARTIN B. MADDEN, the chairman of the Committee on Appropriations of the House of Representatives, who says that "of course these charges we hear about the Comptroller General are not so." What are we going to do about it? Are we going to cancel millions of dollars of lawful debts due the United States?

ENROLLED BILLS SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title, when the Speaker signed the same:

S. 1343. An act for the relief of soldiers who were discharged from the Army during the World War because of misrepresentation of age.

PROHIBITION

Mr. TIMBERLAKE. Mr. Speaker, I ask unanimous consent to proceed for five minutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. TIMBERLAKE. Mr. Speaker and Members of the House, those of you who were here last Monday perhaps heard a colloquy between the gentleman from New York [Mr. CELLER] and myself. He appeared in behalf of a modification of the Volstead Act, and said he felt there was a growing sentiment in favor of a modification of the law. He referred to a referendum taken by the Denver Post on that subject, this referendum showing a vote of about 4 to 1 in favor of a modification of the act. I was called upon to give my views regarding the referendum and was glad to say that in my State the referendum did not express the sentiment of the people of Colorado. I based that statement upon the belief that I entertained that principally those who were interested in a modification of the act took part in the referendum, and that the churches and the element who are opposed to any modification did not engage therein.

I notice in this morning's Washington Herald a statement of the gentleman from New York [Mr. CELLER], in which he cites a telegram from Spencer Penrose, of Colorado Springs, who was one of the judges who passed on the referendum vote. That statement and telegram are as follows:

Statements by the executive committee of the Anti-Saloon League that friends of prohibition do not participate in unofficial newspaper polls were branded as false in the House by CELLER, of New York.

He exhibited a telegram from Spencer Penrose, judge in the poll conducted by the Denver Post. Penrose took TIMBERLAKE, of Colorado, to task for saying Colorado was dry in sentiment. The telegram said:

"TIMBERLAKE is wrong when he said in the House that Colorado is dry and the late poll means nothing. The poll was absolutely square, and the wets won 4½ to 1.

"There were six judges, three wet and three dry. I was one of the judges and know the situation. Both leading Denver papers are very dry and used all their influence to bring out the dry vote. Please tell TIMBERLAKE the people of Colorado are very happy and proud the State is strongly wet."

This morning I received the following telegrams:

MANITOU, COLO., *March 12, 1926.*

Hon. CHARLES B. TIMBERLAKE,

House of Representatives, Washington, D. C.:

You are absolutely right and to be commended in your stand on Colorado. Mr. Penrose is wrong and grossly mistaken, for the people of Colorado are not "proud" over the situation. Newspaper poll is not correct, because thousands of drys did not vote. Colorado in reality is still dry.

J. FRED THOMAS.

[Applause.]

DENVER, COLO., *March 11, 1926.*

Congressman CHARLES B. TIMBERLAKE,

Washington, D. C.:

Denver Post referendum as far as revealing true wet and dry sentiment in Colorado is a joke. The wets voted freely and often. The drys refused to vote. If our wet opponents get any comfort from this, let them enjoy it. Colorado is drier than ever. Fall election will reveal that fact. Colorado is proud of your fight in the House.

A. J. FINCH.

[Applause.]

Also I call attention to the following item from a Denver paper in which Judge Haverstick, of New Jersey, is quoted:

CHANGE IN DRY LAW IS UP TO VOTERS, VISITOR DECLARES—POST REFERENDUM SURPRISED EAST, SAYS JERSEY JUDGE

When a majority of the people want a change in the Volstead Act, to permit the sale of light wines and beer, they will elect Congressmen pledged to that principle, and will finally obtain an amendment to the present law, in the opinion of Judge Samuel Haverstick, of Trenton, N. J., judge of the surrogate court of Trenton County.

Judge Haverstick is in Denver on his return home from California. He addressed the weekly luncheon of the Denver Rotary Club at the Albany Hotel Thursday.

"At the present time a large proportion of our people seem to be dry in print and wet in practice," said Judge Haverstick. "The law is being violated in business offices, homes, clubs, and public places to an alarming extent. We in the East always supposed the Mountain States were absolutely dry in sentiment, but the result of the recent Denver Post referendum has opened our eyes.

I also received a letter this morning confirming the opinion which I expressed the other day, that the wets voted in this referendum and that the drys refrained from voting. That letter is as follows:

SALINA, BOULDER COUNTY, COLO., *March 7, 1926.*

Hon. CHARLES B. TIMBERLAKE,

Washington, D. C.

DEAR MR. TIMBERLAKE: No doubt you are besieged these days with many letters pertaining to the contents of the inclosed clipping, and herewith take the liberty to convey to you some information to the effect that while in a grocery store at Boulder last Saturday it was said a man made the statement in the store that same day that he had voted more than 40 times by clipping and mailing in the Denver Post vote coupon. What a wonderful vote this State could cast for a Representative under the same condition, and should I ever feel disposed to oppose you, I certainly will employ the Post service.

I wish you much happiness and good health.

I am, very sincerely yours,

GEO. D. PARKS.

ADJOURNMENT

Mr. TILSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 20 minutes p. m.) the House adjourned until to-morrow, Saturday, March 13, 1926, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for March 13, 1926, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON THE DISTRICT OF COLUMBIA

(10.30 a. m.)

To repeal and annul certain acts of the Public Utilities Commission of the District of Columbia (H. R. 3805).

To establish a women's bureau in the Metropolitan police department of the District of Columbia (H. R. 7848).

COMMITTEE ON THE JUDICIARY

(10 a. m.)

To amend section 1339 of the Compiled Laws of Alaska, 1913 (H. R. 5953).

To confer jurisdiction on the Court of Claims to certify certain findings of fact (H. R. 8321).

COMMITTEE ON NAVAL AFFAIRS

(10.30 a. m.)

To authorize the disposition of lands no longer needed for naval purposes (H. R. 9881).

To authorize the admission to naval hospitals of dependents of officers and enlisted men of the naval service in need of hospital care (H. R. 3994).

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

393. A letter from the Secretary of War, transmitting, with a report from the Chief of Engineers on preliminary examination and survey of waterway from Duluth, Minn., to Buffalo, N. Y. (H. Doc. No. 270); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

394. A letter from the Secretary of the Navy, transmitting a suggested form of a bill "For the relief of Olga Pascalidis, of Constantinople, Turkey"; to the Committee on Claims.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. ELLIOTT: Committee on Public Buildings and Grounds. H. R. 9875. A bill to amend an act entitled "An act authorizing the Secretary of the Treasury to sell the United States marine hospital reservation and improvements thereon at Detroit, Mich., and to acquire a suitable site in the same locality and to erect thereon a modern hospital for the treatment of the beneficiaries of the United States Public Health Service, and for other purposes," approved June 7, 1924; without amendment (Rept. No. 528). Referred to the Committee of the Whole House on the state of the Union.

Mr. LUCE: Committee on the Library. S. J. Res. 58. A joint resolution authorizing the Librarian of Congress to return to Solomon's Lodge, No. 1, Ancient Free and Accepted Masons, of Savannah, Ga., the minute book of the Savannah, Ga., Masonic lodge; with amendment (Rept. No. 529). Referred to the House Calendar.

Mr. KIESS: Committee on Printing. H. R. 9459. A bill fixing the salary of the Public Printer and the Deputy Public Printer; without amendment (Rept. No. 534). Referred to the Committee of the Whole House on the state of the Union.

Mr. BAILEY: Committee on Post Offices and Post Roads. H. R. 9511. A bill authorizing the Postmaster General to remit or change deductions or fines imposed upon contractors for mail service; without amendment (Rept. No. 535). Referred to the Committee of the Whole House on the state of the Union.

REPORT OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. REECE: Committee on Military Affairs. H. R. 9984. A bill authorizing the President to reappoint Chester A. Rothwell, formerly a captain of Engineers, United States Army, an officer of Engineers, United States Army; without amendment (Rept. No. 530). Referred to the Committee of the Whole House.

Mr. WOODRUFF: Committee on Naval Affairs. H. R. 1718. A bill for the relief of Harold Holst; without amendment (Rept. No. 531). Referred to the Committee of the Whole House.

Mr. STEPHENS: Committee on Naval Affairs. H. R. 3952. A bill authorizing the Secretary of the Navy to receive for instruction at the United States Naval Academy at Annapolis Mr. Gustavo Tegera Guevara, a citizen of Venezuela; without amendment (Rept. No. 532). Referred to the Committee of the Whole House.

Mr. VINSON of Georgia: Committee on Naval Affairs. H. R. 7217. A bill to authorize Capt. F. A. Traut, United States Navy, to accept a decoration from the King of Denmark known as the "Order of Dannebrog"; without amendment (Rept. No. 533). Referred to the Committee of the Whole House.

CHANGE OF REFERENCE

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 6421) granting an increase of pension to Edward P. Payne, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FAIRCHILD: A bill (H. R. 10274) granting relief to certain veterans of the Regular Army, Navy, or Marine Corps of the United States; to the Committee on Pensions.

By Mr. MORIN: A bill (H. R. 10275) authorizing appropriations for construction at military posts, and for other purposes; to the Committee on Military Affairs.

By Mr. KIESS: A bill (H. R. 10276) to provide a permanent government for the Virgin Islands of the United States, and for other purposes; to the Committee on Insular Affairs.

By Mr. GREEN of Iowa: A bill (H. R. 10277) to amend the World War adjusted compensation act; to the Committee on Ways and Means.

By Mr. LEA of California: A bill (H. R. 10278) to provide for the acquisition of additional lands for the Lassen Volcanic National Park; to the Committee on the Public Lands.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BELL: A bill (H. R. 10279) for the relief of James M. Long; to the Committee on Claims.

By Mr. BRAND of Georgia: A bill (H. R. 10280) for the relief of James M. Long; to the Committee on Claims.

Also, a bill (H. R. 10281) granting a pension to Henry Clay Berryman; to the Committee on Pensions.

By Mr. EATON: A bill (H. R. 10282) granting an increase of pension to Isabella Caffey; to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 10283) granting an increase of pension to Mary James; to the Committee on Invalid Pensions.

By Mr. GARDNER of Indiana: A bill (H. R. 10284) granting an increase of pension to Martha J. Hazlewood; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10285) granting an increase of pension to Inez Hazlewood; to the Committee on Invalid Pensions.

By Mr. HOWARD: A bill (H. R. 10286) granting an increase of pension to Susan Olivia Heard; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Illinois: A bill (H. R. 10287) granting an increase of pension to Hulda Brubaker; to the Committee on Invalid Pensions.

By Mr. KELLY: A bill (H. R. 10288) to correct the military record of A. G. Vincent; to the Committee on Military Affairs.

By Mr. KINCHELOE: A bill (H. R. 10289) for the relief of Mack Morgan Lynch; to the Committee on Military Affairs.

By Mr. LINEBERGER: A bill (H. R. 10290) for the relief of Kenneth M. Orr; to the Committee on Naval Affairs.

Also, a bill (H. R. 10291) granting a pension to William E. Sanders; to the Committee on Pensions.

By Mr. MARTIN of Massachusetts: A bill (H. R. 10292) granting an increase of pension to Carolina Miller; to the Committee on Invalid Pensions.

By Mr. MORGAN: A bill (H. R. 10293) granting an increase of pension to Jennie W. McDanield; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10294) granting an increase of pension to Paulina Dupler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10295) granting an increase of pension to Fletcher Duling; to the Committee on Pensions.

By Mr. PARKER: A bill (H. R. 10296) granting an increase of pension to Fannie L. Lewis; to the Committee on Invalid Pensions.

By Mrs. ROGERS: A bill (H. R. 10297) granting a pension to Ida L. Rogers; to the Committee on Invalid Pensions.

By Mr. ROWBOTTOM: A bill (H. R. 10298) granting an increase of pension to Sarah J. Dougan; to the Committee on Invalid Pensions.

By Mr. STROTHER: A bill (H. R. 10299) granting a pension to Sarah L. Williams; to the Committee on Invalid Pensions.

By Mr. THOMPSON: A bill (H. R. 10300) granting a pension to Sidney O. Roughton; to the Committee on Invalid Pensions.

By Mr. UPDIKE: A bill (H. R. 10301) granting a pension to Frances A. Bruce; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10302) granting a pension to Ella Winegardner; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10303) for the relief of Mary R. Long; to the Committee on Claims.

Also, a bill (H. R. 10304) granting an increase of pension to Lucinda E. Sisson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10305) granting an increase of pension to William G. Strodtman; to the Committee on Pensions.

Also, a bill (H. R. 10306) granting an increase of pension to Lenia Frances Hiatt; to the Committee on Pensions.

By Mr. WILSON of Mississippi: A bill (H. R. 10307) for the relief of dependents of men who were killed in the explosion on the battleship *Mississippi;* to the Committee on Claims.

Also, a bill (H. R. 10308) for the relief of the heirs or legal representatives of Charles Johnson and his wife, Kate Johnson; to the Committee on Claims.

By Mr. WINTER: A bill (H. R. 10309) authorizing the sale of lot 2, in square 1113, in the District of Columbia, and deposit the net proceeds in the Treasury; to the Committee on the Public Lands.

By Mr. WOLVERTON: A bill (H. R. 10310) granting a pension to Anderson M. Jarrett, of the West Virginia Home Guards; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1187. By Mr. BLAND: Petition of Mr. R. F. Perciful, Sampsons Wharf, Va., opposing House bills 7179 and 7822, compulsory Sunday observance; to the Committee on the District of Columbia.

1188. By Mr. DAVEY: Petition of 138 citizens of Ohio, protesting against compulsory Sunday observance bills (H. R. 7179 and H. R. 7822); to the Committee on the District of Columbia.

1189. By Mr. GALLIVAN: Petition of Boston Central Labor Union, P. H. Jennings, secretary-business representative, 987 Washington Street, Boston, Mass., recommending early and favorable consideration of House bill 8653, to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases; to the Committee on Labor.

1190. By Mr. GARBER: Letter by the secretary of the United States Maimed Soldiers' League, favoring House bill 3770; to the Committee on Pensions.

1191. Also, memorandum by the National Editorial Association, favoring the Kendall bill (H. R. 4478); to the Committee on the Post Office and Post Roads.

1192. Also, resolution adopted by the National Retail Dry Goods Association, in regard to House bill 3904, known as the "Merritt bill," and requesting certain changes therein; to the Committee on Interstate and Foreign Commerce.

1193. Also, resolution favoring the Gooding-Ketcham bill (S. 2465); to the Committee on Agriculture.

1194. Also, letter from Michigan Association Opposed to Capital Punishment; to the Committee on the Judiciary.

1195. By Mr. GIBSON: Petition of citizens of Orange County, Vt., against pending legislation providing for compulsory Sunday observance in the District of Columbia; to the Committee on the District of Columbia.

1196. By Mr. KETCHAM: Petition of 54 residents of Gobles, Mich., protesting against House bills 7179 and 7822, the Sunday observance bills; to the Committee on the District of Columbia.

1197. By Mr. KINDRED: Petition of the Lions Club of Long Island City, N. Y., urging the United States Congress to enact such legislation as may be appropriate and necessary to vest in the President of the United States and/or other Federal officials the proper legal right and authority to protect the citizens of this country against a recurrence of the evils occasioned by the recent coal strike; to the Committee on Interstate and Foreign Commerce.

1198. By Mr. KNUTSON: Petition of O. Christensen, of Brainerd, Minn., and others, protesting against the passage of House bills 7179 and 7822; to the Committee on the District of Columbia.

1199. By Mr. LAMPERT: Resolution adopted by the county board of supervisors of Calumet County, Wis., favoring modification of the national prohibition act; to the Committee on the Judiciary.

1200. By Mr. LEAVITT: Resolution of the Kiwanis Club of Kalispell, Mont., favoring continuance of the provisions of the Sheppard-Towner Maternity Act; to the Committee on Interstate and Foreign Commerce.

1201. By Mr. MACGREGOR: Resolutions of Chapter No. 9, Polish Welfare Council of America, in reference to the bill providing for the annual registration of aliens; to the Committee on Immigration and Naturalization.

1202. By Mr. MANLOVE: Petition of the Carterville Chamber of Commerce, of Carterville, Jasper County, Mo., protesting against pending radio legislation (H. R. 9108 and S. 1); to the Committee on the Merchant Marine and Fisheries.

1203. Also, petition of 36 citizens of Noesho, Newton County, Mo., protesting against compulsory Sunday observance; to the Committee on the District of Columbia.

1204. By Mr. MEAD: Petition of Niagara Frontier Traffic League, supporting House bill 6383; to the Committee on Interstate and Foreign Commerce.

1205. Also, petition of Niagara Frontier Traffic League, supporting House bill 6359; to the Committee on Interstate and Foreign Commerce.

1206. Also, petition of Niagara Frontier Traffic League, indorsing House bill 6397; to the Committee on Interstate and Foreign Commerce.

1207. Also, petition of Niagara Frontier Industrial Traffic League, regarding House bill 6363; to the Committee on Interstate and Foreign Commerce.

1208. By Mr. O'CONNELL of New York: Petition of the U. Grant Border's Sons, shippers' agents, of New York City, favoring the passage of House bill 6400; to the Committee on Interstate and Foreign Commerce.

1209. Also, petition of the Women's Committee for the Extension of the Maternity and Infancy Act, of Washington, D. C., favoring the passage of House bill 7555; to the Committee on Interstate and Foreign Commerce.

1210. By Mr. PRALL: Petition of residents of Staten Island, N. Y., opposing House bills 7179 and 7822, compulsory Sunday observance; to the Committee on the District of Columbia.

1211. By Mr. REED of New York: Petition of Mrs. Wilson Price, favoring the two-year extension of the Sheppard-Towner Act now pending; to the Committee on Interstate and Foreign Commerce.

1212. By Mr. SINCLAIR: Petition of W. R. Rupert and 21 others, of Lark, N. Dak., protesting against the enactment of any compulsory Sunday observance legislation; to the Committee on the District of Columbia.

1213. By Mr. TAYLOR of New Jersey: Petition of sundry citizens of New Jersey, opposing House bills 7179 and 7822, compulsory Sunday observance in the District of Columbia; to the Committee on the District of Columbia.

1214. By Mr. TEMPLE: Petition of Pennsylvania State Grange, Harrisburg, Pa., protesting against the Curtis-Reed bill proposing the establishment of a department of education at Washington or to any similar bill that may be introduced; to the Committee on Education.

1215. By Mr. TILLMAN: Petition of G. E. Norwood, W. E. Cherry, and many others against the passage of any bills for compulsory Sunday observance, including House bills 7179 and 7822; to the Committee on the District of Columbia.

1216. By Mr. TILSON: Petition of Mrs. E. Sachtlein and others, of New Haven, Conn., protesting against compulsory Sunday observance; to the Committee on the District of Columbia.

1217. By Mr. VINCENT of Michigan: Petition signed by numerous residents of Gratiot County, Mich., protesting against House bills 7179 and 7822; to the Committee on the District of Columbia.

1218. Also, petition signed by numerous residents of Montcalm County, protesting against House bills 7179 and 7822; to the Committee on the District of Columbia.

1219. By Mr. WAINWRIGHT: Petition of sundry adult residents of White Plains, N. Y., remonstrating against the passage of House bills 7179 and 7822, providing for compulsory Sunday observance in the District of Columbia; to the Committee on the District of Columbia.

1220. By Mr. YATES: Petition of Illinois Motor Transportation Association, composed of the authorized motor bus operators of the State of Illinois, urging passage of House bill 8266, introduced by Representative PARKER, to regulate interstate commerce by motor vehicles operating as common carriers on the public highways; to the Committee on Interstate and Foreign Commerce.